

ONE SHILLING.

THE

ELEMENTARY

EDUCATION

ACT

POPULARLY EXPLAINED

344.0709

41

H728E

c.1

COMP.STAR.

HOLDEN & CO. LTD.

LONDON

GEORGE ROUTLEDGE & SONS

111 BROADWAY LONDON

1870

015E CIR

3 0005 00016 1862

344.070941 H728E C1

Great Britain. Education Dept.  
The Elementary Education Act  
R.W.B. JACKSON LIBRARY

See 94



THE  
ELEMENTARY EDUCATION ACT,  
1870,

POPULARLY EXPLAINED:

TOGETHER WITH

THE VARIOUS ORDERS IN COUNCIL ISSUED BY THE  
EDUCATION DEPARTMENT.

BY

W. A. HOLDSWORTH,

BARRISTER AT LAW

LIBRARY

OCT 12 1982

THE ONTARIO INSTITUTE  
FOR STUDIES IN EDUCATION

LONDON:

GEORGE ROUTLEDGE AND SONS,  
THE BROADWAY, LUDGATE.

~~7017~~

LONDON:

PRINTED BY WOODFALL AND KINDER,  
MILFORD LANE, STRAND, W.C.

60025

## PREFACE.

---

DURING its passage through Parliament, the Elementary Education Act, 1870, was the subject of many and fierce controversies. It is now generally acknowledged to be a large, liberal, and, although last, not least, an eminently practical measure. It may not meet the views of any one sect, party, church, or school, but it has commended itself to something beyond and above controversial crotchets—the common sense and the right feeling of the country at large. It is, no doubt, a compromise; but, in England, every great legislative work is, must be, and ought to be, a compromise. That it will not serve the ends of any of those who desire to work the educational machinery of the country for their own purposes, is not the least of its merits. Equally comprehensive and elastic, it is thoroughly national in nothing more than this—that it places within the reach of the people the education which they do want, instead of enabling any one to force upon them that which they do not want.

In the main, the Act is one of the most intelligible pieces of legislation which has proceeded from Parliament of recent years. But, like every Act, it requires a certain amount of elucidation and explanation. It is one object of the present work, not only to furnish our readers with the Act in its integrity, but to present it in the form in which it can be most readily understood, and in which the relation of its different parts can be most easily apprehended. We have therefore arranged its clauses under different heads, and in accordance with what seems to us their natural sequence. By the copious use of cross-references, we have, we trust, enabled any one to turn at once from any one provision to any other with which it may need to be read in connection. We have endeavoured, in our comments, to make clear anything which might seem open to doubt; and we have given in the body of the work the notes on the Appendix, either the text, or a summary of other Acts, which are incorporated with, or are referred to, in the one immediately under consideration. There will also be found in the Appendix the various orders and circulars issued by the Education Department with respect to the election of school boards.

4, BRICK COURT, TEMPLE,  
*November, 1870.*

# CONTENTS.

---

	PAGE
Introductory : the Present System—how far Modified by the Act of 1870	1
Interpretation of Terms.	9

## PART I.—LOCAL PROVISION FOR SCHOOLS.

Formation of School District.	12
Provision of Public Elementary Schools	15
Powers of Education Department in regard to calling for Returns and making Inquiries as to Sufficiency of School Accommodation	24
Notice by Education Department of Public School Accommodation required	30
Mode of holding Public Inquiry—Provisions relating thereto	33
Formation of School Boards, and Requisition to provide Schools	36
Election of School Boards other than those for the Metropolis	40
The School Board in the Metropolis	43
The Term for which Members of a School Board are Elected	54
Rules respecting the Election and Retirement of Members of a School Board	54
Non-election, &c., of a School Board	60
Mode of determining Disputes as to the Election of School Boards	61
Disqualification of Members of the Board	61
The Constitution of School Boards	62
Appointment of Managers by the School Board	64
Rules regulating the Proceedings of School Boards and Managers	65
Appointment of Officers of School Board	69
Powers and Duties of School Board	70
Regulations under which Schools Established by the Board are to be Conducted—Provision as to Religious Instruction	72
Neglect by Board of Regulations of Public Elementary Schools	73
School Board to maintain their Schools, and supply sufficient School Accommodation	73
Powers of School Boards for providing Schools, including their Powers for the Compulsory Purchase of Sites	80
Managers may transfer Schools to School Board	83
The Payment or Remission of School Fees	93
Industrial Schools	95
Attendance at School—Compulsory Education	101

	PAGE
United School Districts . . . . .	104
Contributory Districts . . . . .	109
Power of Districts to combine . . . . .	110
Mode of defraying Expenses of School Boards—any Deficiency to be made good out of Rates . . . . .	111
Remedy of School Board for Default of Rating Authority . . . . .	114
Borrowing by School Board . . . . .	115
Borrowing by Metropolitan School Board . . . . .	116
Ratepayers may inspect Books and Documents of School Board . . . . .	118
Accounts and Audit . . . . .	119
Proceedings against School Boards in Default . . . . .	127
The Dissolution of School Boards . . . . .	131
Tenure of Appointment by Teacher, and his Removal from School-house . . . . .	132
Notices—how to be Published . . . . .	133
Evidence, &c.—Appearance of School Board in Legal Proceedings . . . . .	134
Offences and Penalties—Corrupt Practices at Elections . . . . .	136
Small Endowments—Charitable Trusts . . . . .	138
Rateable Value—how ascertained . . . . .	139
Inspection of Voluntary Schools by Inspector—not one of Her Majesty's Inspectors . . . . .	139
Provision as to Oxford . . . . .	140
Schedules—Returns . . . . .	140

## PART II.—OF THE PARLIAMENTARY GRANT.

Provisions relating thereto . . . . .	141
APPENDIX I. Grants to establish Elementary Schools . . . . .	149
II. The Metropolitan District: its Constitution and its Divisions, with their Boundaries . . . . .	153
III. The Sections of the Metropolitan Management Acts, 1855, 1862, so far as they are incorporated in the Elementary Education Act for the purpose of Regulating Elections in the Metropolis. 18 & 19 Vict. cap. 120 . . . . .	158
IV. Order Regulating the First Election of the School Board for London . . . . .	163
V. Regulations for the First Election of School Boards in Boroughs . . . . .	178
VI. Fourth Schedule—School Sites Acts . . . . .	185

THE  
ELEMENTARY EDUCATION ACT,  
1870.

---

INTRODUCTORY.

THE PRESENT SYSTEM ; HOW FAR MODIFIED BY THE  
ACT OF 1870.

“THE Elementary Education Act, 1870,” although a measure of the highest importance, is not one of a revolutionary character. It does not destroy, but modifies and develops, the existing system. It builds, in a great degree, upon the ancient foundations, and follows their lines ; although the edifice which it rears is far more spacious and imposing than the former one. Like most pieces of English legislation, it must be taken in connection with that which has gone before, and out of which it has sprung. Both for this reason, and because some parts of the old system which stand condemned by the present Act will nevertheless remain for

a short time in operation, it is desirable to state succinctly the mode in which the Education of the people is now partially provided for. We have, of course, nothing to do here with such purely voluntary schools as are supported entirely by the contributions of their friends, and have no connection with the Government. The only schools which concern us are those which are aided by the State, and are under the control of the Committee of the Privy Council on Education. The conditions on which they are assisted, and the nature of the jurisdiction exercised over them, by the Education Department, are thus described in the preliminary chapter to the Revised Code (1870) :—

1. A sum of money is annually granted by Parliament for public Education in Great Britain.

2. This sum is administered by an establishment called the Education Department.

3. The head of the Education Department is the Lord President of the Council, assisted by a member of the Privy Council, who is called the Vice-President of the Committee on Education, and who acts under the direction of the Lord President, and for him in his absence (Order in Council, 25 February, 1856, Act 19 & 20 Vict. c. 116).

4. The object of the grant is to promote the education of children belonging to the classes who support themselves by manual labour.

5. The means consist in aiding voluntary local exer-

tion, under certain conditions, to establish or maintain schools, which are either :

- (a) For the instruction of children (*elementary*) ;  
or,
- (b) For training schoolmasters and schoolmistresses (*normal*).

6. In elementary schools, the children attend from the homes of their parents, and charge is taken of them during the school hours only.

7. In normal schools, entire charge is taken of the students.

8. Every school aided from the grant must be either :

- (a) A school in connection with some recognized religious denomination ; or,
- (b) A school in which, besides secular instruction, the Scriptures are read daily from the authorized version.

9. Aid to establish schools is given by grants towards the cost of building, enlarging, improving, or fitting up elementary school-rooms and dwellings for elementary teachers.

Aid is not given to establish normal schools.

10. Aid to maintain schools is given by grants to the Managers conditional upon the attendance and proficiency of the scholars, the qualifications of the teachers, and the state of the schools.

11. The aid given to maintain schools is known as

“Annual Grants,” being annually payable, at a fixed time, to each school allowed to receive them.

12. No grants are made to schools which are not open to inspection by inspectors appointed by Her Majesty in Council on the representation of the Committee of Council on Education.

13. The Committee of Council consults the religious or educational bodies which are mentioned in Article 30, before making representations to Her Majesty for the appointment of inspectors to visit schools in connection with those several bodies.

14. The inspectors do not interfere with religious instruction, discipline, or management of schools, but are employed to verify the fulfilment of the conditions on which grants are made, to collect information, and to report the result to the Committee of Council.

15. No annual grant is paid, except on a report from the inspector, after a periodical visit, showing that the conditions of the grant have been fulfilled.

16. The Committee of Council, at the time of agreeing to make annual grants to an elementary school, informs the managers in what month to look for the inspector's annual visit. This month remains the same from year to year, unless the Committee of Council informs the managers of a change. The inspector gives notice of the day of his visit beforehand to the managers.

17. Annual grants are issued to each elementary school only once per annum. The year for this purpose is reckoned as ending with the last day (inclusive)

of the month preceding that fixed for the inspector's annual visit.

18. Schools which have received aid for building, but are not receiving annual grants, are inspected as often as the periodical inspection of the schools receiving annual grants permits.

19. The managers of schools fulfilling the conditions of Articles 4, 6, and 8, may apply for the benefit of Article 18, without having received, or applying for, any grant.

20. The duration of the period over which the right of inspection extends, depends upon the degree of permanency of the object for which the grant is made.

(a) If the grant is made for erecting, enlarging, or improving a school, the right of inspection is secured by a clause inserted in, or endorsed upon, the school deed, and is co-extensive with the interest conveyed by that deed.

(b) If the grant is annual only, the inspector's visit may at any time be declined by the managers, on forfeiting the grant depending upon it.

It will be seen from the above that at present there are two classes of grants to schools. In the first place, there are grants called "Building Grants," made towards the cost of erecting, enlarging, improving, or fitting up elementary school-rooms, and the houses of elementary teachers. In the second place, there are

“Annual Grants,” to defray the current expenses of the schools. The first of these grants will cease to be made when the new Act comes into full operation; such schools as may be necessary will hereafter be provided, so far as the State is concerned, by the school board, and the cost of building or fitting them will be defrayed in the manner we shall point out in the proper place. But they may still be made for a short time, the 96th Section of the Act providing that:—

“No Parliamentary grant shall be made in aid of building, enlarging, improving, or fitting up any elementary school, except in pursuance of a memorial duly signed, and containing the information required by the Education Department for enabling them to decide on the application, and sent to the Education Department on or before the thirty-first day of December, one thousand eight hundred and seventy.”

Until the 31st December, 1870, therefore, the Education Department will receive applications for such grants, on the conditions laid down by the Revised Code; and will in due course afterwards make them whenever those conditions are complied with. The schools to which these building grants have been made will preserve their denominational character hereafter, and will also be entitled to receive annual grants on accepting the conscience clause (as to which, see p. 16) set forth in the present Act. And

even if they do not accept the conscience clause, and are consequently disentitled to the annual grant, they will not be called upon to refund the building grant.\* The only consequence of their refusal will be that they will hereafter have to depend exclusively upon voluntary contributions. This may be of importance with respect to schools which received building grants *before* the passing of the Act, but we apprehend that no grants have been made *since*, or will hereafter be made, where the promoters of the school do not engage to accept the conscience clause, and thus, as we shall see, become a public elementary school under this arrangement. As, however, the conscience clause allows religious education of a denominational character to be freely given in the schools to those whose parents do not withdraw them from it, persons who desire to see children receive such an education, rather than one of the neutral tint which will be given in schools established by the school boards (*see* p. 72), have every inducement to avail themselves of the time still left, in order to obtain building grants and set up new schools. They thus not only obtain the means of propagating their own religious views, but they may even

\* Mr. Forster, in introducing the Bill, said, on this point : "There is, of course, no intention to interfere with schools which have received a past building grant, and which will not accept the conscience clause. They will not receive the annual grant, but no interference will be attempted with them on account of the building grant which they have already received."

altogether prevent the establishment of rate-supported undenominational schools in a district, since, as we shall see, the latter class of schools are only to be set up when there is an insufficient amount of accommodation in public elementary schools provided by voluntary effort, with or without State assistance. As considerable interest thus continues to be attached—although only for a short time—to these building grants, we have thought it right to give in our Appendix the provisions of the Revised Code relating to them. (*See Appendix I.*)

The *annual* grants to schools will still continue to be made under the new Act, subject, however, to the conditions which it prescribes. (*See p. 142.*) No school, however long it may have been founded or have enjoyed them, will be allowed to receive them after the 31st day of March, 1870, unless it complies with those conditions, and thus becomes a “public elementary school.” And as it may, and no doubt will, often happen that the trust deeds of existing schools contain provisions which would preclude their managers from doing this, it is provided by Sec. 99 of the Act, that “the managers of every elementary school shall have power to fulfil the conditions required in pursuance of this Act,\* to be fulfilled in order to obtain a Parliamentary grant, notwithstanding any provision contained in any instrument regulating the

\* The managers of such a school may, also, transfer it to the school board (Sec. 23) ; *see p. 88.*

trust or management of the school, and to apply such grant accordingly."

It will, therefore, be seen that, while the new Act will prevent any assistance being given (after the time we have already mentioned) to the foundation of any new denominational school, it will allow denominational schools already founded, or *even those which may hereafter be founded*, by voluntary effort, to claim and to receive "annual grants," exactly as at present, if their managers will only conform to the regulations contained in Clause 7, for which see p. 15. And even in districts where school boards are formed, they will have no power to interfere with the management of these denominational or voluntary schools.

## INTERPRETATION OF TERMS.

Having now explained the extent to which, and the modifications under which, the existing system will survive the new Act, we shall proceed at once to deal with the provisions of the measure. The first point to be noticed is the meaning of the terms which are used in it. All those which are open to any doubt are clearly defined in the interpretation clause (Sec. 3), and the explanation there given must be carefully borne in mind by all who would use the Act. It is almost unnecessary to say that, in the subsequent pages, we shall always use the words in question in the sense and with the meaning attributed to them in this clause, which is as follows:—

## 3. In this Act—

The term “metropolis” means the places for the time being within the jurisdiction of the Metropolitan Board of Works under the Metropolis Management Act, 1855 :

The term “borough” means any place for the time being subject to the Act of the session of the fifth and sixth years of the reign of King William the Fourth, chapter seventy-six,\* intituled “An Act to provide for the Regulation of Municipal Corporations in England and Wales,” and the Acts amending the same :

The term “parish” means a place † for which for the time being a separate poor-rate is or can be made :

The term “person” includes a body corporate :

The term “Education Department” means “the Lords of the Committee of the Privy Council on Education :”

The term “Her Majesty’s inspectors” means the inspectors of schools appointed by Her Majesty on the recommendation of the Education Department :

\* In other words, all boroughs now possessing municipal corporations.

† *i. e.* Any parish, township, hamlet, &c., for which a separate poor-rate is or can be levied. The “parish” here referred to is a “parish” in the civil and not in the ecclesiastical sense.

The term "managers" includes all persons who have the management of any elementary school, whether the legal interest in the school-house is or is not vested in them :

The term "teacher" includes assistant teacher, pupil teacher, sewing mistress, and every person who forms part of the educational staff of a school :

The term "parent" includes guardian and every person who is liable to maintain or has the actual custody of any child :

The term "elementary school" means a school or department of a school at which elementary education is the principal part of the education there given, and does not include any school or department of a school at which the ordinary payments in respect of the instruction, from each scholar, exceed ninepence a week :

The term "schoolhouse" includes the teacher's dwelling-house and the playground (if any), and the offices and all premises belonging to or required for a school :

The term "vestry" means the ratepayers of a parish meeting in vestry according to law :

The term "ratepayer" includes every person who, under the provisions of the Poor Rate Assessment and Collection Act, 1869, is deemed to be duly rated :

The term “Parliamentary grant” means a grant made in aid of an elementary school, either annually or otherwise, out of moneys provided by Parliament for the civil service, intituled “For Public Education in Great Britain.”

---

## PART I.—LOCAL.

### PROVISION FOR SCHOOLS.

#### FORMATION OF SCHOOL DISTRICTS.

THE Elementary Education Act, 1870, does not extend to Scotland or Ireland. Its object, we need hardly say, is to secure throughout England and Wales the provision of accommodation and appliances for the elementary education of the people, adequate both in quantity and in quality. It proposes to do this partly, as we have seen, through the medium of voluntary schools already existing or to be hereafter established, and partly—when the voluntary schools are deficient either in quantity or quality—by the establishment of rate-supported schools under public school boards.

In order to obtain a basis of operations, the country is divided into districts, called school districts. Sec. 4 provides that, “for the purposes of this Act, the respective districts, boards, rates, and funds, and authorities described in the first schedule to this Act, shall be the school district, the school board, the local rate, and the rating authority.” This first schedule is as follows:—

School District.	School Board.	Local Rate.	Rating Authority.
		In the City of London the consolidated rate.	The commissioners of sewers.
		In the parishes mentioned in schedule A. and the districts mentioned in schedule B. to the Metropolis Management Act, 1855, the general rate, and fund raised by the general rate.	In the parishes the vestry, and in the districts the district board.
The metropolis.	The school board appointed under this Act.	In places mentioned in schedule C. to the said Act, the rate levied for the purposes of the Metropolitan Poor Act, 1867, and any Act amending the same.	The masters of the bench, treasurer, governors, or other persons who have the chief control or authority in such place.
Boroughs, except Oxford.	The school board appointed under this Act.	The borough fund or borough rate.	The council.
District of the local board of Oxford.	The school board appointed under this Act.	Rate leviable by the local board.	The local board.
Parishes not included in any of the above-mentioned districts.	The school board appointed under this Act.	The poor-rate.	The overseers.

The *first* column of the schedule shows, therefore, that the metropolis forms a district to itself; \* that the district of the Oxford Local Board of Health is another district; that each municipal borough forms a district to itself; and that throughout the remainder of the country each parish is a separate district. The

\* Under the interpretation clause, the "metropolis" includes all places for the time being within the jurisdiction of the Metropolitan Board of Works under the Metropolitan Management Act, 1855. These are set forth in three schedules to that Act. See Appendix II.

provisions of the schedule, so far as relates to parishes, are, however, somewhat modified by Sec. 77, which provides that:—

“Where a parish is situated partly within and partly without a borough, the part situate outside of the borough shall be taken to be, for all the purposes of this Act, except as otherwise expressly mentioned, a parish by itself, and the ratepayers thereof may meet in vestry in the same manner in all respects as if they were the inhabitants of a parish; every such meeting, and also the meeting for the purposes of this Act, of the ratepayers of any parish (the ratepayers of which have not usually met in vestry), shall be deemed to be a vestry, and, save as provided by this Act, be subject to the Act of the fifty-eighth year of the reign of King George the Third, chapter sixty-nine, and the Acts amending the same, and, subject as aforesaid, shall be summoned by the persons and in the mode prescribed by the Education Department; and the overseers of the whole parish shall be deemed to be the overseers of any such part of a parish.”

The Education Department have also power under Secs. 40–48 (*see* p. 104), to unite school districts; and under Secs. 49–52 (*see* p. 109), they may cause one district to contribute towards the support or maintenance of public elementary schools in another.

The remaining columns of the schedule speak for themselves; they enumerate very clearly what is the source from which the expenses of a school board in

each district—should one be called into existence—are to be defrayed, and by what authority the requisite rate is to be laid. The subject of the school rate, however, belongs to a subsequent part of our subject.

## PROVISION OF PUBLIC ELEMENTARY SCHOOLS.

Having thus mapped out the country into districts, the Act next provides (Sec. 5) that “there shall be provided for every school district a sufficient amount of accommodation in public elementary schools (as hereinafter defined), available for all the children resident in such district for whose elementary education efficient and suitable provision is not otherwise made, and where there is an insufficient amount of such accommodation, in this Act referred to as ‘public school accommodation,’ the deficiency shall be supplied in manner provided by this Act.”

The first question which obviously arises on this clause is, what are “public elementary schools?” The answer is supplied by Sec. 7, which provides that:—

“Every elementary \* school which is conducted in accordance with the following regulations shall be a public elementary school within the meaning of this Act; and every public elementary school shall be conducted in accordance with the following regulations (a copy of which regulations shall be conspicuously put up in every such school); namely,

\* For definition of the term “elementary” see *ante*, p. 11.

- (1.) It shall not be required, as a condition of any child being admitted into or continuing in the school, that he shall attend or abstain from attending any Sunday school, or any place of religious worship, or that he shall attend any religious observance or any instruction in religious subjects in the school or elsewhere, from which observance or instruction he may be withdrawn by his parent, or that he shall, if withdrawn by his parent, attend the school on any day exclusively set apart for religious observance by the religious body to which his parent belongs : \*
- (2.) The time or times during which any religious observance is practised, or instruction in religious subjects is given, at any meeting of the school, shall be either at the beginning or at the end or at the beginning and the end of such meeting, and shall be inserted in a time table to be approved by the Education Department, and to be kept permanently and conspicuously affixed in every school-room ; and any scholar may be withdrawn by his parent from such observance or instruction † without forfeit-

\* These latter words meet the case of Jews and Roman Catholics.

† It will be observed that the words here are "from such observance or instruction." If, therefore, the arrangements of the school be such as to allow secular instruction to be

ing any of the other benefits of the school :

- (3.) The school shall be open at all times to the inspection of any of Her Majesty's inspectors, so, however, that it shall be no part of the duties of such inspector to inquire into any instruction in religious subjects given at such school, or to examine any scholar therein in religious knowledge, or in any religious subject or book :
- (4.) The school shall be conducted in accordance with the conditions required to be fulfilled by an elementary school in order to obtain an annual parliamentary grant.”\*

A public elementary school under this clause is therefore one which accepts the conscience clause as set

given to some children, while the others are undergoing religious tuition, then the children withdrawn from the latter by their parents may be forbidden to leave the school ; and a rule to that effect would not compromise the character of the school as a public elementary school, or cause it to forfeit any of the advantages which it derives in respect thereof.

\* The meaning of the last clause is that the school must be conducted in accordance with the provisions of the Revised Code for the time being in force, and also with Clause 97 of the present Act. (*See* page 142.) It would be useless to enter upon the provisions of the present Code which prescribe the conditions on which a school may obtain a grant and regulate its amount, because this Code will be again revised early next year. No alterations can, however, come into effect until the new Code has lain on the table of both Houses for a month.

forth in the first and second of these conditions; which is open at all times to the inspection of Her Majesty's inspectors, so far as the secular instruction therein given and the general management are concerned; and which is so far well conducted that it is entitled to an annual parliamentary grant. It will be observed, that accommodation is to be provided in public elementary schools for children *for whose elementary education efficient and suitable provision is not otherwise made.* The meaning of the words we have placed in *Italics* is elucidated by the Eighth clause, which requires the Education Department, in considering the amount of public school accommodation required for any district to take into consideration every school, *whether public, elementary, or not*, and whether actually situated in the school district or not, which in their opinion gives, or will when completed give, efficient elementary education to, and is, or will when completed be, suitable for the children of such district. The effect of this latter provision is, that if there be in any district a denominational or other school not complying with the terms of the fifth clause, and not conducted in strict accordance with the conditions of the Revised Code, but which does, nevertheless, supply adequately the educational wants of a certain number of children—whether of some particular denomination or not—then, although it may not be generally acceptable or available, it will be taken into consideration to this extent—that the children resorting to it will not be counted amongst those for whom it is necessary to provide public

elementary schools. On the other hand, these schools will be taken into consideration only to an extent measured by the children who are, or may reasonably be, expected to resort voluntarily to them; and not to the extent of the accommodation they would afford if children were forced to attend them, whether their parents do or do not approve the religious teaching there given. For instance, suppose there be in a district a Church-of-England school, conducted without a conscience clause, which would accommodate 200 children. Then, if there were 100 children of Church-of-England parents who habitually resort to it, and for whom it is a perfectly unobjectionable provision, it will be taken into consideration to the extent of those 100 children; but it will not be considered as offering any accommodation to the other 100 children who might be taught in it, but for the "religious difficulty" which its mode of management raises.

The eighth clause also requires the Educational Department to take into consideration "schools, whether actually situated in the district or not, &c.;" so that if there be in one parish a school quite sufficient for, and easily accessible to, the children both of that and an adjoining parish, the latter parish will not be required to elect a school board, or to levy a school-rate for the establishment of a school of its own.\*

\* Even when school boards are established, there need not be a separate board for each parish. (*See ante*, p. 14, and the clauses of the Act there referred to.)

Having stated the kind of schools to be provided in each district, and what considerations are to have weight in estimating its educational wants, we must now consider what is meant by the "sufficient" accommodation which is to be provided. The best exposition we can give of the meaning of this expression is furnished by two letters addressed by the Education Department to the Worcester Diocesan Board of Education and another public body:—

"Education Department, Whitehall, London, S.W.,

"8th August, 1870.

"Rev. Sir,—In reply to your letter, dated 4th August, Mr. Forster desires me to state that no definite rule can as yet be laid down with regard to that proportion of the population of a parish for which school accommodation should be provided. Mr. Forster, however, believes that the rule hitherto followed in deciding upon applications for building grants—viz., to allow schools to be erected with the aid of such grants for one-sixth of the entire population of a district, will, in practice, be found to be an adequate measure of such proportion.

"In determining in any particular district whether there is 'efficient and suitable provision' under Clause 5, the Education Department must be guided by the returns to be rendered by the local authority, on or before the 1st of January, 1871, and also by the report of the inspector, who, if necessary, will visit the district.

“Efficient and suitable provision will be held to be made for a district when there is efficient elementary school accommodation within a reasonable distance of the home of every child who requires elementary instruction, of which he can avail himself on payment of a fee within the means of his parent, without being required to attend any religious instruction to which his parent objects.

“I may add that there is nothing in the Bill to prevent a school from being recognized as giving such efficient and suitable provision because the teacher is not certificated; but it will depend upon the conditions to be laid down in the new Code whether any elementary school can be acknowledged as a public elementary school, and therefore as entitled to receive annual grants.—I remain, Rev. Sir, your obedient servant,

H. S. BRYANT.”

Education Department, Whitehall, London, S.W.,  
“26th August, 1870.

“Sir,—In reply to your letter of the 19th inst., I am directed to inform you that no definite answers can be given at present to inquiries (1) as to the school provision that will be required for any particular district; (2) the accommodation that will be afforded by any particular school; or (3) the superficial or cubical area that will be accepted as sufficient for any child, or number of children.

“The first point can be determined only when my

Lords receive the returns to be made by the local authority of the district, on or before the 31st December, 1870, and the report of an inspector who may, if necessary, subsequently visit the district.

"The second point will in like manner be determined upon the report of an inspector upon the particular school in question. The capacity of a school-room, and the number of children it can accommodate, depend not merely upon its area, but also on its shape, on the nature and arrangement of the school furniture, and on the positions of the doors and fireplaces.

"As regards the third point, Article 51 (a) of the Revised Code prescribes that no school shall receive annual aid unless it is 'held in a building certified by the inspector to be healthy, properly lighted, drained, and ventilated, supplied with offices, and containing in the principal school-room at least 80 cubical feet of internal space for each child in average attendance.' " \*

\* With regard to "cubical space," we find the following passage in an official letter addressed by the Education Department to the Inspectors of Education in September, 1862:—

"31. Cubical space has to be considered upon sanitary grounds, but does not supersede the consideration of area. If you find a school-room which allows the minimum number of cubical feet per child, but of which the floor is not sufficiently large, or not properly shaped, for the organization of the school, you will report accordingly.

"32. The 'principal school-room' is named because the school

“ If,” said Mr. Forster, on introducing the Bill, “ in any one of these districts we find the elementary education to be sufficient, efficient, and suitable, we leave the district alone. By sufficient, I mean if we find that there are enough schools ; by efficient, I mean schools which give a reasonable amount of secular education ; and by suitable, I mean schools to which, from the absence of religious or other restrictions, parents cannot reasonably object ; and I may add that, for the purpose of ascertaining the condition of these districts, we count all schools that will receive our inspectors, whether private or public, whether aided or unaided by Government assistance, whether secular or denominational. If we find the district adequately supplied, we let it alone so long as it continues in that state, retaining for ourselves the power to renew the examination from time to time.” By leaving it alone is meant, that the Education Department will not compel the election of a school board or the establishment of rate-supported schools. We shall see hereafter, that if the ratepayers

must for many purposes meet as one body, and 80 cubical feet of space per child is a minimum everywhere.”

“ It may be assumed that, subject to the inspector's report as to the convenience of a building for the number of scholars occupying it, the minimum space per scholar specified in Article 51 (*a*) will be accepted ; but the managers of schools should bear in mind that, although rooms higher than 10 feet may supply the requisite cubical space for a larger number of scholars, it is rarely found in practice that a school can be efficiently worked with less than 8 square feet per child of area in the main room and class rooms.”

or others wish it, a school board may be elected in districts where there are already sufficient schools provided by the voluntary system. For the present, however, we will assume that no such wish is entertained. In that case, things will go on exactly as at present, in a district which fulfils the description of the Vice-President, with this single but most important exception—that the managers of every school which receives an annual grant from the Privy Council must submit to the conscience clause, and fulfil the other conditions set forth in Section 7 (*see ante*, p. 15). If they will not accept that clause and those conditions, they will then forfeit any claim to further annual grants, and must for the future depend on the support of their friends; but, as we have already said, they will not be required to return any building grants they may have heretofore received: they will continue to hold their school-houses, although partly erected with public money, perfectly free from any sort of claim or control on the part of the State.

#### POWERS OF EDUCATION DEPARTMENT IN REGARD TO CALLING FOR RETURNS AND MAKING INQUIRIES AS TO THE SUFFICIENCY OF SCHOOL ACCOMMODATION.

In order to ascertain whether there is sufficient public school accommodation in each district, the Education Department are authorized to call for returns, and if necessary to institute public in-

quiries. This power, which they may not only exercise in the first instance, and for the purpose of ascertaining whether it is immediately necessary to take steps for supplying our educational deficiency, but they may also exercise it subsequently not oftener than once a year, and whether there be or be not a school board in the district. In fact, the clauses to which we shall now call attention, enable them to maintain a perfect acquaintance with the educational necessities of the country, and with the means that are in existence to meet them; while other clauses which we shall subsequently notice give them the power, on discovering any want of school accommodation, to take immediate measures for its supply.

Confining ourselves for the present to the power of call for returns and holding inquiries, we find the eighth Section provides that—

“For the purpose of determining with respect to every school district the amount of public school accommodation, if any, required for such district, the Education Department shall, immediately after the passing of this Act, cause such returns to be made as in this Act mentioned, and on receiving those returns, and after such inquiry, if any, as they think necessary, shall consider whether any and what public school accommodation is required for such district, and in so doing they shall take into consideration every school, whether public elementary or not, and whether actually situated in the school district or not, which in their

opinion gives, or will when completed give, efficient elementary education to, and is, or will when completed be, suitable for the children of such district."

The above clause, it will be seen, is confined to the returns to be called for, and the inquiry to be made, immediately after the passing of the Act. It is then followed by the 13th clause, which gives similar powers for the future :—

"After the receipt of any returns under this Act subsequently to the first with respect to any school district, and after such inquiry as the Education Department think necessary, the Education Department shall consider whether any and what public school accommodation is required in such district, in the same manner as in the case of the first returns under this Act, and where in such district there is no school board acting under this Act they may issue notices and take proceedings in the same manner as they may after the receipt of the first returns under this Act, and where there is a school board in such district they shall proceed in manner directed by this Act."

In order to obtain the returns referred to in the above clause it is enacted by the 67th section that—

"On or before the first day of January one thousand eight hundred and seventy-one, or in the case of the metropolis before the expiration of four months from the date of the election of the chairman of the school board, every local authority hereinafter mentioned, and

subsequently any such local authority whenever required by the Education Department, but not oftener than once in every year, shall send to the Education Department a return containing such particulars with respect to the elementary schools and children requiring elementary education in their district as the Education Department may from time to time require.\*

For the purpose of obtaining such returns it is provided by Sect. 68, that the Education Department shall draw up forms, and supply to the local authority such number of forms as may be required; and the managers or principal teacher of every school required to be included in any such return shall fill up the form, and return the same to the local authority within the time specified in that behalf in the form. The Education Department has already issued these forms, which require information of a very searching and minute character with respect to all existing elementary schools.

These returns are to be made in the metropolis by the school board appointed under this Act, in boroughs by the council, and in every parish not situated in a borough or the metropolis by persons appointed for the purpose or by the overseers of such parish. Where a school board is formed under this Act, the returns are to be made by such school board within their district, instead of by the council, persons appointed as aforesaid, or overseers, as the case may be.\*

\* Sec. 69.

The persons appointed for the purpose may be appointed as follows : namely, the Education Department may, if they think fit, send to the overseers or other officers who have power to summon a vestry in such parish a requisition to summon, and such overseers or other officers shall summon a vestry in such parish for the purpose of this section ; and such vestry shall appoint \* two or more persons who shall be the local

\* Three days' public notice must be given of the holding of any vestry meeting, and of the purpose for which it is to be held. This notice must be affixed before the commencement of Divine service, on a Sunday previous to the holding of the meeting, to the principal doors of all the churches or chapels in the place. It must be signed by a churchwarden of the church or chapel, or by the rector, vicar, or curate of the parish, or by an overseer of the poor of the parish. A poll may be demanded, and must, if demanded, be taken on any question submitted to a vestry. It will be taken under the 58th George III. c. 60, s. 3, which now regulates the voting in vestries, and whereby it is provided : "That every inhabitant present who, by the last rate made for the relief of the poor, shall have been assessed in respect of any annual rent, profit, or value, not amounting to £50, shall give one vote and no more ; if assessed for any such annual rent, &c., amounting to £50 or upwards (whether in one or more than one sum or charge), he is entitled to give one vote for every £25 in respect of which he shall have been assessed ; but so that no inhabitant shall give more than six votes ; and when two or more of the inhabitants present are jointly rated, each is to vote according to the proportion borne by him of the joint charge ; and when only one of the persons jointly rated attends, he is to vote according to the whole of the joint charge." No person who has neglected or refused to pay any poor-rate which is due, and has been demanded from him, is entitled to attend or vote, or be present, until he has paid the same. It

authority for the purpose of the returns under this Act.

The local authority may, with the sanction of the Education Department, employ persons to assist in making such returns, and may pay those persons such remuneration as the Treasury may sanction. That remuneration, and all such other reasonable expenses incurred by the local authority in making such returns as the Treasury may sanction, shall be paid by the Education Department.\*

If any local authority fail to make the returns required under this Act, the Education Department may appoint any person or persons to make such returns, and the person or persons so appointed will for that purpose have the same powers and authorities as the local authority.†

is not, however, necessary to have actually paid any poor-rate ; for if a man have come into the parish since the last rate was levied, he can vote in respect of the property for which he has become liable to be rated exactly as if he had been actually rated. When the votes are equal on a poll, the chairman has a right to give a casting vote, in addition to the vote or votes to which he is entitled as a private individual in respect of his assessment. Under the Poor Rate and Assessment and Collection Act of 1869 (32 and 33 Vict. c. 41), the occupier of premises in respect of which the owner is rated is deemed to be duly rated for any qualification or franchise, including, of course, the right of voting in vestry. The latter provision is, of course, of great importance to the working classes, who reside, to a great extent, in houses in respect of which the owner is rated.

\* Sec. 69.

† Sec. 70.

The Education Department may appoint any persons to act as inspectors of returns: these persons will proceed to inquire into the accuracy and completeness of any one or more returns made in pursuance of this Act, and into the efficiency and suitability of any school mentioned in any such return, or which ought to have been mentioned therein, and to inspect and examine the scholars in every such school. Where there is no return the inspector will proceed as if there had been a defective return.\*

If the managers or teacher of any school refuse or neglect to fill up the form required for the said return, or refuse to allow the inspector to inspect the school-house or examine any scholar, or examine the school books and registers, or make copies or extracts therefrom, such school will not be taken into consideration among the schools giving efficient elementary education to the district.†

## NOTICE BY EDUCATION DEPARTMENT OF PUBLIC SCHOOL ACCOMMODATION RE- QUIRED.

The returns referred to in the last section having been received, the Education Department will consider them, and will decide, after such consideration, whether the existing school accommodation of a district is sufficient, and if not, what further accommodation is requisite.

\* Sec. 71.

† Sec. 72.

Having done so, they will (under Sec. 9) publish a notice of their decision as to the public school accommodation for any school district, setting forth with respect to such district the description thereof, the number, size, and description of the schools (if any) available for such district, which they have taken into consideration as above mentioned, and the amount and description of the public school accommodation, if any, which appears to them to be required for the district, and any other particulars which the Education Department think expedient. Then—

If any persons being either—

(1.) Ratepayers of the district, not less than ten, or if less than ten being rated to the poor-rate upon a rateable value of not less than one-third of the whole rateable value of the district,\* or,—

(2.) The managers of any elementary school in the district,

feel aggrieved† by such decision, such persons may,

\* As to the rateable value of the district, see Sec. 79, *post*, p. 139.

† Managers of schools may feel “aggrieved,” and may demand an inquiry, should the Education Department hold that these schools are not up to the standard or of the character of public elementary schools. Ratepayers may feel “aggrieved” if the Department decide that more schools are requisite, because, as we shall presently see, this may entail the levy of a school-rate. And not the less may persons interested in the education of the poor feel “aggrieved” that the Department has decided that there is a sufficiency of schools when this is not the case. In each of these instances, as well as in others

within one month after the publication of the notice, apply in writing to the Education Department for, and the Education Department shall direct the holding of, a public inquiry in manner provided by this Act. (As to the mode of holding public inquiries under the Act, see *post*, p. 33.)

At any time after the expiration of such month, if no public inquiry is directed, or after the receipt of the report made after such inquiry, as the case may be, the Education Department may, if they think that the amount of public school accommodation for the district is insufficient, publish a final notice, stating the same particulars as were contained in the former notice, with such modifications (if any) as they think fit to make, and directing that the public school accommodation therein mentioned as required be supplied.\*

Either before or after this final notice appears, it will be open to private persons to come forward and supply the deficiency indicated. They will not, as we have already seen, be able after December 31, 1870, to obtain any public grant to assist them in building a school-house; but, on the other hand, if they themselves erect a suitable building, and establish a school, conducted in conformity with the Revised Code for the time being, and duly qualified as a Public Elementary which will doubtless arise, but which we cannot anticipate, the parties "aggrieved" will have a right to call for a public inquiry, provided, of course, that they are authorized managers of schools or ratepayers to the number and value described in the clause.

\* Sec. 9.

school, under Clause 7 (*see ante*, p. 15), they will be entitled to an annual grant. (See further, as to the conditions on which parliamentary grants are made, Sec. 97, *post*, p. 142.)

It will be found, from a section which we shall immediately cite, that in no case can the Education Department allow *more* than six months from the date of their final notice for the provision of schools by voluntary effort. They may, however, allow as much *less* than six months as they think fit.\*

### MODE OF HOLDING PUBLIC INQUIRY.— PROVISIONS RELATING THERETO.

We have seen, under the last head, that any persons aggrieved by the decision of the Education Department with regard to the public school accommodation of a district, may require a public inquiry. Public inquiries may also be held under the Act in reference to an appli-

\* If we may judge from a remark made by Mr. Forster, in committee on the Bill, in reference to this clause, he will not allow anything like an interval of six months where there is a flagrant want of school accommodation. "He would say, that if a district was found altogether declining to make any provision for the education of its children, until compelled to do it, there is no good reason why there should be, in a case like that, a delay of a year, or even of six months. On the other hand, the Privy Council might have good grounds for believing that another district had every intention of doing all that was necessary to make the required provision, and it might be desirable that it should be allowed *a month or two* for the purpose."—Hansard, vol. ccii., p. 1221.

cation for the formation of school districts (*see* p. 37); to proposals of school boards to put in force the provisions of the Lands Clauses Act with regard to the purchase of land (*see* p. 82); to proposals to make or revoke orders for the contribution by one school district to the cost of a school in another (*see* p. 110); and to the complaints of persons who are opposed to a proposition to form a united district, or to dissolve one that is already formed (*see* p. 105). In all these cases, the mode of procedure, and the provisions for the expenses of the inquiry, are the same.

The 73rd section of the Act applies to every instance in which a public inquiry is held under the Act. It enacts that:—

“Where a public inquiry is held in pursuance of the provisions of this Act, the following provisions shall have effect:—

- (1.) The Education Department shall appoint some person who shall proceed to hold the inquiry:
- (2.) The person so appointed shall for that purpose hold a sitting or sittings in some convenient place in the neighbourhood of the school district to which the subject of inquiry relates, and thereat shall hear, receive, and examine any evidence and information offered, and hear and inquire into any objections or representations made respecting the subject of the inquiry, with power from time to time to adjourn any sitting.

Notice shall be published in such manner as the Education Department direct of every such sitting (except an adjourned sitting) seven days at least before the holding thereof :

- (3.) The person so appointed shall make a report in writing to the Education Department, setting forth the result of the inquiry, and stating his opinion on the subject thereof, and his reasons for such opinion, and the objections and representations, if any, made on the inquiry, and his opinion thereon ; and the Education Department shall cause a copy of such report to be deposited with the school board (if any), or, if there is none, the town clerk of the borough, or the churchwardens or overseers of the parishes to which the inquiry relates, and notice of such deposit to be published: \*
- (4.) The Education Department may make an order directing that the costs of the proceedings and inquiry shall be paid, according as they think just, either by the district, as if they were expenses of a school board, or by the applicants for the inquiry ; and such costs may be recovered, in the former case as a debt due from the school board, or, if there is no school board, as a debt due from the rating authority, and, in the case of the

\* Sec. 80 of the Act regulates the publication of notices. It will be found at p. 133.

applicants, as a debt due jointly and severally from them ; and the Education Department may, if they think fit, before ordering the inquiry to be held, require the applicants to give security for such expenses, and in case of their refusal may refuse to order the inquiry to be held.

## FORMATION OF SCHOOL BOARD AND REQUISITION TO PROVIDE SCHOOLS.

The formation of a school board in any district may be brought about in one of three ways :—In the *first* place, the Education Board, finding that there is an insufficient school accommodation in a district, may direct the formation of a school board as a preliminary step to the supply of the deficiency. In the *second* place, persons in a district in which there are sufficient schools may apply for the formation of a board, in order to obtain the benefit of various provisions of the Act which only come into operation when such a body is in existence. In the *third* place, the Education Department may order the election of a school board when they become aware that an elementary school is about to be given up, and that in consequence the school accommodation of the district to which it belongs will become deficient.

I. If, after the expiration of a time not exceeding six months, to be limited by the final notice,\* the Edu-

\* See *ante*, p. 32.

cation Department are satisfied that all the public school accommodation required by the final notice to be supplied has not been so supplied, nor is in the course of being supplied with due despatch, it is then provided that the Education Department shall cause a school board to be formed for the district, as provided in this Act, and shall send a requisition to the school board so formed, requiring them to take proceedings forthwith for supplying the public school accommodation mentioned in the requisition, and the school board shall supply the same accordingly.\*

Then, if the school board fail to comply with the requisition within twelve months after the sending of this requisition, they will be deemed to be in default; and if the Education Department are satisfied that such board are in default, they may proceed in the manner directed by the Act with respect to a school board in default.†

II. and III. We take the two latter cases together, because they are dealt with by the same clause of the Act (Sec. 12), which provides that—

“In the following cases, (that is to say),

- (1.) Where application is made to the Education Department with respect to any school dis-

\* Sec. 10.

† Sec. 11. With respect to the mode in which the Education Department may proceed against defaulting school boards, see *post*, p. 127.

trict by the persons who, if there were a school board in that district, would elect the school board, or with respect to any borough, by the council :

- (2.) Where the Education Department are satisfied that the managers of any elementary school in any school district are unable or unwilling any longer to maintain such school, and that if the school is discontinued the amount of public school accommodation for such district will be insufficient,

the Education Department may, if they think fit, without making the inquiry or publishing the notices required by this Act before the formation of a school board, but after such inquiry public or other, and such notice as the Education Department think sufficient, cause a school board to be formed for such district, and send a requisition to such school board in the same manner in all respects as if they had published a final notice.

“An application for the purposes of this section may be made by a resolution passed by the said electing body, after notice published at least a week previously, or by the Council, and the provisions of the second part of the second schedule\* to this Act with respect to the passing of such resolution shall be observed.”

The mode in which a resolution sanctioning an application for a school board must be passed by the council in a borough, or by the ratepayers in a parish,

\* See page 39.

is regulated by the second part of the second schedule to the Act, which runs as follows:—

“1. The meeting of a council for the purpose of passing such a resolution shall be summoned in the manner in which a meeting of the council is ordinarily summoned, and the resolution shall be passed by a majority of the members present and voting on the question.

“2. The resolution passed by the persons who would elect the school board\* shall be passed in like manner as near as may be as that in which a member of the school board is elected, with such necessary modifications as may be contained in any order made under the powers of the first part of this schedule,† and such powers shall extend to the passing of the resolution in like manner as if it were an election, but the expenses incurred with reference to such a resolution shall be paid by the overseers out of the poor-rate.

“3. If a resolution is rejected, the resolution shall not be again proposed until the lapse of twelve months from the date of such rejection.”

It may, however, be asked, why should either the ratepayers or the council, or any one else, desire the establishment of a school board? In the first place, many town councils have applied, and others will probably apply, for a school board, because they

\* See *post*, p. 43, as to who are the “ratepayers” enabled to elect a school board, and as to their right of voting.

† No such order has been issued.

know that the supply of schools within the borough is deficient, and desire that the deficiency should be made good at once, without waiting for the deliberate and formal procedure which the Education Department, acting of its own mere motion, is compelled to follow. But even when there is no deficiency of school accommodation in a borough or parish, there are reasons, for some or all of which it may be desirable that a school board should be elected: we will mention two. The managers of some voluntary schools may be unwilling longer to bear the burthen of their support, and it may, therefore, become necessary that a rate should be levied to defray their cost, which can only be done through the medium of a school board. Again, bye-laws for the compulsory education of children can only be made by a school board: it is only the same body who can remit the school fees in case of children whose parents are too poor to pay them.

## THE ELECTION OF SCHOOL BOARDS OTHER THAN THOSE FOR THE METROPOLIS.

The law relating to the election of school boards in the metropolis and in the rest of the kingdom is different in many important respects. In other respects it is, on the other hand, the same. We shall first deal with the points on which the law is different, and we shall then come to those on which it is the same. Our readers must be careful to observe under which heading any particular provision falls.

“With respect to the election under this Act of a school board, except in the metropolis, Clause 31 enacts that the following provisions shall have effect :—

- (1.) The number of members of a school board shall be such number, not less than five nor more than fifteen, as may be determined in *the first instance* by the Education Department, and *afterwards* from time to time by a resolution of the school board approved by the Education Department :
- (2.) The regulations contained in the second schedule to this Act with respect to the election and retirement of the members of the school board, and the other matters therein contained, shall be of the same force as if they were enacted as part of this section :\*
- (3.) The Education Department may, at any time after the date at which they are authorized under this Act to cause a school board to be formed, send a requisition to the mayor or other officer or officers who have power to take proceedings for holding the election, requiring him or them to take such proceedings, and the mayor or other officer or officers shall comply with such requisition ; and in case of default some person appointed by the Education Department may take such proceedings,

\* See, as to the provisions of the second schedule, under the heading (*post*, p. 54) “Rules respecting the Election and Retirement of Members of a School Board.”

and shall have for that purpose the same powers as the person in default."

The school board is to be elected under Sec. 29:—

I. In a borough, by the persons whose names are on the burgess roll of such borough for the time being in force. Who, then, are such burgesses? The answer is supplied in the 1st section of the 32nd & 33rd Vict. c. 55, which provides that "every person of full age [*i.e.*, 21 or upwards], who on the last day of July, in any year, shall have occupied any house, warehouse, counting-house, shop, or other building, within any borough during the whole of the preceding twelve calendar months, and also during the time of such occupation shall have resided within the said borough, or within seven miles of the said borough,\* shall, if duly enrolled in the year, according to the provisions contained in the 5th & 6th Wm. IV. c. 76,† and the Acts amending the same, be a burgess of such borough, and member of the body corporate of the mayor, aldermen, and burgesses of such borough: Provided that no such person shall be so enrolled in any year unless he shall have been rated in respect of such premises so occupied by him within the borough to all rates made for the relief of the poor of the parish wherein such premises are situated during the time of his occupation as aforesaid, and unless *he shall have paid* on or before the twentieth day of July in such year all such rates,

\* The seven miles is to be measured "as the crow flies."

† The Municipal Corporation Reform Act.

including therein all borough rates, if any, directed to be paid under the provisions of the said Acts as shall have become payable by him in respect of the said premises up to the preceding 5th day of January :\* Provided also that the premises in respect of the occupation of which any person shall have been so rated need not be the same premises or in the same parish, but may be different premises in the same parish or in different parishes : Provided also that no person being an alien shall be so enrolled in any year, and that no person shall be so enrolled in any year who within twelve calendar months next before the last day of July shall have received parochial relief or other alms."

Women, if duly qualified under the above clause, are entitled to be placed on the burgess roll.

II. In a parish not situate in the metropolis nor in a borough, the board is to be elected by the ratepayers.

The meaning of the word "ratepayers" is defined by the interpretation clause (*ante*, p. 9). It is there

\* instance, in order that a person should be on the burgess roll of a borough for 1871-2 (that is to say, the roll which comes into operation on the 1st day of November, 1871, and remains in force until the 31st day of October, 1872), a person must have occupied the qualifying tenement for a whole year previous to the 31st July, 1871, and must, before the 20th July, 1871, have paid all rates which became due up to the 5th January, 1871. His non-payment of any rates which became due subsequently will not affect his right to be on the burgess roll; and, once on that roll, no question can be asked him, when he comes up to vote at an election for an education board, as to whether he has, or has not, paid any rates whatever.

said to include "every person who, under the provisions of the Poor Rate Assessment and Collection Act, 1869, is deemed to be duly rated." Now, under the words "duly rated," there are two sets of circumstances to be considered. In the first place, the occupier of a tenement may pay the rates. In that case, he will of course be rated, and no possible difficulty can arise. But, in the second place, the occupier may not pay the rates; he frequently does not, where he occupies a small tenement, or one let for a short term. Nevertheless, although the owner may pay the rates, the occupier is still a *ratepayer* under the Act of 1869, and is as such entitled to vote at the election of a school board; Section 19 of that Act providing that, in making out the rate, the overseers must in every case, whether the rate is collected from the owner or occupier, or the owner is liable to the payment of the rate instead of the occupier, enter in the occupier's column of the rate-book the name of the occupier of every rateable hereditament, *and such occupier shall be deemed to be duly rated.* And not only so, but even if the overseer have omitted the name of an occupier such as we are referring to from the proper column of the rate-book, he will nevertheless be entitled to vote, since the latter part of the same section of the Act of 1869, which we have just quoted, goes on to enact, that "any occupier whose name has been omitted shall, notwithstanding such omission, and that no claim to be rated has been made by him, be entitled to every qualification and franchise depending on rating in the same manner as if his name had not been so omitted."

Women who are duly rated in accordance with these provisions are entitled to vote.

A person is none the less a "ratepayer," and as such entitled to vote at an election under this Act, because he may not have *paid* the rates which are due from him.

At any election of a school board (and this is the case whether in the country or in the metropolis), every voter "is entitled to a number of votes equal to the number of the members of the school board to be elected, and may give all such votes to one candidate, or may distribute them among the candidates as he thinks fit." \*

Every ratepayer, whatever may be the amount of his qualification, has the same number of votes. The number of votes will be the number of candidates to be elected for any district, and he may give these votes in any one of the following ways. Supposing, for instance, that there are twelve members to be elected for the borough or parish, then he may give one vote to each of the twelve candidates he may select from amongst the persons nominated; or he may give the whole twelve votes to one candidate; or he may give as many votes as he pleases, *not exceeding twelve in the whole*, to any two, three, or more candidates as he may choose.

It will be observed that the Act does not prescribe any qualification whatever for the members of school boards. Any person whom the ratepayers may choose is equally eligible; and that whether they are men or

women, are or are not ratepayers or burgesses, or reside either within or without the boundaries of the district for which they are elected. If, for instance, the burgesses of Manchester were to fix upon a woman living in lodgings, at the Land's End, as an eligible member of their school board, there is nothing whatever, either in this or any other Act, to prevent them electing her.

Under the second schedule of the Act, the election of a school board is to be held at such time and in such manner, and in accordance with such regulations, as the Education Department may from time to time by order prescribe; and the Education Department has also power by order to appoint, or direct the appointment, of any officers requisite for the purposes of such election, and to do all necessary things preliminary or incidental to such election. It is, however, provided that the poll shall be taken in any district other than the metropolis in like manner as a poll of burgesses or ratepayers (as the case may be) is usually taken in such district.\*

By virtue of the power thus given to them, the Education Department have issued an order minutely regulating all the details of an election for a borough school board. In this order, which we give in the

\* One effect of this provision is to prevent the elections being taken by ballot in any borough or parish not included in the metropolis, because no polls have heretofore been so taken there. In the metropolis, as we shall see, a poll may be taken by ballot, because there this mode of voting is sanctioned by the Metropolis Management Act, 1855.

Appendix (Appendix V.), will be found full provision and direction as to the time and mode of election and nomination. To it we must refer our readers for further information on these points. It is so clearly drawn up that it calls for no elucidatory remarks on our part.

It must be observed that this order will not be in force after the 1st of September, 1871, unless it has been confirmed by Parliament previous to that day ; and that in the meantime it may be modified or superseded by any other order which the Education Department may issue.

As to the time for which members of a school board are elected, their resignation, retirement, the supply of any casual vacancies in the board, &c., see *post*, p. 54, under the heading “ Rules respecting the Election and Retirement of Members of a School Board.” Under the same title will be found provisions as to what is to be done if a school board is not elected at the time fixed for the first election, or ceases at any time to be in existence, &c. ; as to the determination of disputes as to the election of school boards ; as to the disqualification of members ; and some other matters. We postpone dealing with them until we have described the mode of electing the education board for the metropolis, because they are, with some slight exceptions, applicable to *all* boards—whether for London, a borough, or a parish.

The Education Department has not yet issued any order for regulating the election of parochial school

boards. The reason of this is, no doubt, that no application for the election of such a board has been received by the Department, while their compulsory powers under Secs. 9 and 10 \* have not as yet come into operation.

## THE SCHOOL BOARD IN THE METROPOLIS.

The Metropolis is defined in the interpretation clause to be the place for the time being within the jurisdiction of the Metropolitan Board of Works, under the "Metropolis Management Act, 1855." (*See Appendix III.*)

Then by Clause 37 it is enacted that:—

"The provisions of this Act with respect to the formation and the election of school boards in boroughs and parishes shall not extend to the metropolis; and with respect to a school board in the metropolis the following provisions shall have effect:—

- (1.) The school board shall consist of such number of members elected by the divisions specified in the fifth schedule to this Act as the Education Department may by order fix:
- (2.) The Education Department, as soon as may be after the passing of this Act, shall by order determine the boundaries of the said divisions for the purposes of this Act, and

\* See *ante*, pp. 32 and 36.

the number of members to be elected by each such division :\*

- (3.) The provisions of this Act with respect to the constitution of the school board † shall extend to the constitution of the school board under this section, and the name of the school board shall be the School Board for London :
- (4.) The first election of the school board shall take place on such day, as soon as may be after the passing of this Act, ‡ as the Education Department may appoint, and subsequent elections shall take place in the month of November every third year on the day from time to time appointed by the school board :
- (5.) At every election for each division every voter shall be entitled to a number of votes equal to the number of the members of the school board to be elected for such division, and may give all such votes to one candidate,

\* The divisions specified in the 5th schedule are—Marylebone, Finsbury, Lambeth, Tower Hamlets, Hackney, Westminster, Southwark, City, Chelsea, and Greenwich. Their boundaries are settled by an Order in Council of the 11th October, 1870, which will be found in Appendix II.

† See *post*, p. 62.

‡ This date is fixed for the 29th November, 1870, by an Order in Council dated October 28th, 1870. The same Order regulates the mode of nomination, election, &c., in the metropolis. It will be found in Appendix.

or may distribute them among the candidates, as he thinks fit :

- (6.) Subject to the provisions contained in this section and in any order made by the Education Department under the power contained in the second schedule to this Act, the members of the board shall, in the city of London, be elected by the same persons and in like manner as common councilmen are elected, and in the other divisions of the metropolis shall be elected by the same persons and in the same manner as vestrymen under The Metropolis Management Act, 1855, and the Acts amending the same ; and, subject as aforesaid, the Acts relating to the election of common councilmen, and sections fourteen to nineteen, and twenty-one to twenty-seven, all inclusive, of The Metropolis Management Act, 1855, and section thirty-six of The Metropolis Management Amendment Act, 1862, shall, so far as is consistent with the tenor thereof, apply in the case of the election of members of the school board :” \*

\* We give these incorporated sections in Appendix III. It must be borne in mind that, under this section, read in connection with the second schedule of the Act, they are up to September 1st, 1871, only in force, *in so far as they are consistent with the tenor of any Order in Council issued in respect to the election of school boards.* It will be found that they are, in all important points, quite consistent with the Order in

[It will be seen by the last provision that there are two kinds of qualification and two modes of voting in the metropolis. *In the city* of London, the election is by open voting, and the electors are the same persons as elect the common councillors. Under the 12th and 13th Vict. c. xciv. and 30th and 31st Vict. c. i. (both these are local and personal Acts), the right of voting for common councillors is conferred upon freemen of the city of London, upon £10 occupiers (either jointly or separately, but so that in case of a joint occupation the total value shall give £10 to each), and upon "every person on the register of voters for the city of London in use at the election of members of Parliament in respect of the occupation of any house, warehouse, counting-house, shop, office, chambers, or other building." In the metropolitan district outside the city the voting is by ballot, while the electors are (under the Order in Council of the 28th October, 1870, already referred to) the "ratepayers, as defined by the Elementary Education Act, 1870." With respect to the meaning of that expression, see *ante*, p. 11.\*]

"(7.) The school board shall proceed at once to

Council already issued (*see* Appendix IV.). After September 1st, 1871, the operation of these clauses in the metropolitan districts can only be varied, suspended, or modified, by the authority of Parliament.

\* See, on all points connected with the election for the metropolitan district, whether within or without the city, Appendix. This order prescribes the *mode* of taking the ballot.

supply their district with sufficient public school accommodation, and any requisition sent by the Education Department to such board may relate to any of the divisions mentioned in the fifth schedule to this Act in like manner as if it were a school district, and it shall not be necessary for the Education Department to publish any notices before sending such requisition :

- (8.) The Education Department may, in the order fixing the boundaries of such divisions, name some person who shall be the returning officer for the purposes of the first election of the school board, and the person who is to be the deputy returning officer in each such division :
- (9.) The chairman of the school board shall be elected by the school board, and any chairman who may be elected by the board may be elected either from the members of the board or not; and any chairman who is not an elected member of the board shall, by virtue of his office, be a member of the board as if he had been so elected :
- (10.) The school board shall apportion the amount required to be raised to meet the deficiency in the school fund among the different parts of the metropolis mentioned in the third column of the first schedule to this Act, in

proportion to the rateable value of such parts, as shown by the valuation lists for the time being in force under 'The Valuation (Metropolis) Act, 1869,' or, if any amount is so required before any such valuation list comes into force, in the same proportion and according to the same basis in and according to which the then last rate made by the Metropolitan Board of Works was assessed :

- (11.) For obtaining payment of the amount specified in any precept sent by the school board to the rating authority for any part of the metropolis, the school board, in addition to any other powers and remedies, shall have the like powers as the Metropolitan Board of Works have for obtaining payment of any sum assessed by them on the same part of the metropolis.

The school board for London may pay to the chairman of such board such salary as they may from time to time, with the sanction of the Education Department, fix.\*

If at any time application is made to the Education Department by the school board for London, or by any six members of that board, and it is shown to the satisfaction of the Education Department that the population of any of the divisions mentioned in the fifth schedule of this Act, as shown by any census taken under the authority of Parliament, has varied materially from

\* Sec. 38.

that shown by the previous census, or that the rateable value of any of the said divisions has materially varied from the rateable value of the same division ten years previously, the Education Department, after such inquiry as they think necessary, may, if they think fit, make an order altering, by way of increase or decrease, the number of members of that and any other division.”\*

## THE TERM FOR WHICH MEMBERS OF SCHOOL BOARDS ARE ELECTED.

Members of school boards are elected for three years. See the second schedule, under the head following (that is to say)—

## RULES RESPECTING THE ELECTION AND RETIREMENT OF MEMBERS OF A SCHOOL BOARD.

The second schedule of the Act contains a series of rules and regulations respecting the election and retirement of members of a school board, which find their natural place in connection with this part of the Act. We shall therefore insert them here. It will be seen that the first and third parts of the schedule, taken together, form a complete code of regulations applicable to *all* school boards, whether metropolitan or non-metropolitan; but it will also be observed, that while the “First Part” (with the exception of the latter part of

\* Sec. 39.

the first and the whole of the fourth article), has this general application, the "Third Part" relates solely to the metropolis. The third article of the third part should be carefully noted, as it modifies in an important manner the operation of the fifth and sixteenth articles of the first part in reference to the metropolis.

### FIRST PART.

#### *Rules respecting Election and Retirement of Members of a School Board.*

1. The election of a school board shall be held at such time, and in such manner, and in accordance with such regulations as the Education Department may from time to time by order prescribe, and the Education Department may by order appoint or direct the appointment of any officers requisite for the purpose of such election, and do all other necessary things preliminary or incidental to such election: Provided that any poll shall be taken in the metropolis in like manner as a poll is taken under The Metropolis Management Act, 1855, and shall be taken in any other district in like manner as a poll of burgesses or ratepayers (as the case may be) is usually taken in such district.

2. The expenses of the election and taking the poll in any district other than the metropolis shall be paid by the school board out of the school fund.

3. An order made by the Education Department under the power contained in this part of this schedule shall, as regards any election held before the first day

of September one thousand eight hundred and seventy-one, be deemed to be within the powers of this schedule, and to have been duly made and have effect as if it were enacted in this schedule, but shall not be of any force as regards any election after the said date unless it has been confirmed by Parliament.

4. Any such order so far as relates to the metropolis shall supersede any provisions contained in the Acts relating to the election of common councilmen, and in the Metropolis Management Act, 1855, and the Acts amending the same.

5. If from any cause no members are elected at the time at which they ought to be elected in accordance with this Act, then—

(a.) In the case of the first election the Education Department may appoint another day for the election, or may proceed as in the case of a school board in default.

(b.) In the case of a triennial election the retiring members, or so many as are willing to serve, shall be deemed to be re-elected, or, if all the retiring members refuse to serve, the Education Department may appoint another day for the election, or may proceed as in the case of a school board in default.

6. If an insufficient number of members are elected, or if, in the case of no members being elected, some of the retiring members are and some are not willing to

serve, the school board, as far as it is constituted, shall elect a person to fill each vacancy.

7. No election under this Act shall be questioned on the ground of the title of the returning officer, or any person presiding at the poll, or any officer connected with the election.

8. Notice of the election of a person to be a member of the school board shall be sent to that person by the returning officer : in the case of the first election such notice shall be accompanied by a summons to attend the first meeting of the school board at the prescribed time.

9. The day for the triennial retirement of members shall be the prescribed day.

10. The first members shall retire from office on the day for retirement which comes next after the expiration of three years from the day fixed for the first election.

11. Members chosen to fill the offices of retiring members shall come into office on the day for retirement, and shall hold office for three years only.

12. Any person who ceases to be a member of the school board shall, unless disqualified as hereinafter mentioned, be re-eligible.

13. A member of the school board may resign on giving to the board one month's previous notice in writing of his intention so to do.

14. If a member of the school board absents himself during six successive months from all meetings of the board, except from temporary illness or other cause

to be approved by the board, or is punished with imprisonment for any crime, or is adjudged bankrupt, or enters into a composition or arrangement with his creditors, such person shall cease to be a member of the school board, and his office shall thereupon be vacant.

15. If any casual vacancy in office occurs, by death, resignation, disqualification, or otherwise, an election shall be held in manner directed by an order made under the power contained in this part of this schedule.\*

16. If by any means the number of members of a school board is reduced to less than the number required for a quorum, the Education Department may proceed as if such board were a board in default,† or may direct an election to be held to fill up the vacancies in manner directed by an order made under the power contained in this part of the schedule.

17. The member chosen to fill up a casual vacancy shall retain his office so long only as the vacating member would have retained the same if no vacancy had occurred.

18. If the number of the board is reduced in pursuance of the provisions of this Act, the chairman of the board shall at some meeting, as soon as may be after such reduction, determine by ballot on the members who shall retire, so as to reduce the number of the board to the number to which it is so reduced.

\* No order of the kind has yet been issued.

† See, as to proceedings against a board in default, *post*, p. 127.

19. The term "prescribed" in this schedule means prescribed by some minute or order of the Education Department.

[The second part of the schedule relates to a different subject. It will be found in the place to which it naturally belongs, *ante*, p. 39].

### THIRD PART.

#### *Rules for Election of School Board in Metropolis.*

1. If any person be returned for more than one division, he shall, at or before the first meeting of the school board after such election, signify in writing to the board his decision as to the division which he may desire to represent on such return, and if he fails so to do the school board shall decide the division which he shall represent; and upon any such decision the office of member for the other division shall be deemed vacant. Such vacancy shall be filled up by an election to be held in manner directed by an order made under the power contained in the first part of this schedule.

2. The provisions in the first part of this schedule shall apply in the case of the school board in the metropolis.

3. The provisions in the first part of this schedule with respect to the proceedings in the case of no members being elected for a school district shall not only apply to the whole of the metropolis, but shall apply to the case of no members being elected for any particular division, *with this qualification, that the Education Department shall not proceed as in the case*

of a school board in default,\* but may direct that persons may be elected by the school board to be members for such division.

4. In the places named in schedule (C.) to "The Metropolis Management Act, 1855," the expenses of the election shall be paid out of the local rate, and such rate, or any increase of the rate, may be lewied for the purpose.

5. The day for the retirement of members from office shall be the first day of December.

6. Any casual election shall be held on the day fixed by the school board, and shall be an election for the division a member for which has created the vacancy.

7. If any vacancy is filled up by the school board the election shall be by the whole school board.

## NON-ELECTION, &c., OF A SCHOOL BOARD.

The 32nd section of the Act provides that,—

"If from any cause in *any* school district the school board either are not elected at the time fixed for the first election, or at any time cease to be in existence,

\* The effect of this article is, that although the Education Department might proceed as in the case of a school board in default, if no board at all were elected for the metropolis, they cannot so proceed if no members, or an insufficient number of members, are elected in one or more of the metropolitan divisions. In the latter case, they must either cause an election to be held to fill up the vacancies (under Article 16 of the first part of these regulations), or they must call upon the Metropolitan School Board to do so, under the article on which we are commenting.

or to be of sufficient number to form a quorum by reason of non-election, resignation, or otherwise, or neglect or refuse to act, the Education Department *may* proceed in the same manner as if there were a school board acting in such district, and that board were a board in default.\*

## THE MODE OF DETERMINING DISPUTES AS TO THE ELECTION OF SCHOOL BOARDS.

This is provided for by the 33rd section, which enacts, that—

In case any question arises as to the right of any person to act as a member of a school board under this Act, the Education Department may, if they think fit, inquire into the circumstances of the case, and make such order as they deem just for determining the question, and such order shall be final, unless removed by writ of *certiorari* during the term next after the making of such order.

## DISQUALIFICATION OF MEMBERS OF THE BOARD.

No member of a school board, and no manager appointed by them, shall hold or accept any place of

\* As to proceedings against a board in default, see *post*, p. 127. The Education Department are not compelled to proceed under this section. They may, in the case therein referred to, avail themselves of the alternative powers given them by the second schedule (*see* articles, 5, 15, and 16 of that schedule, *ante*, p. 54).

profit the appointment to which is vested in the school board, or in any managers appointed by them, nor shall in any way share or be concerned in the profits of any bargain or contract with or any work done under the authority of such school board or managers appointed by them : provided that this section shall not apply to—

- (1.) Any sale of land or loan of money to a school board ; or,
- (2.) Any bargain or contract made with or work done by a company in which such member holds shares ;
- (3.) The insertion of any advertisement relating to the affairs of any such school board in any newspaper in which such member has a share or interest,

if he does not vote with respect to such sale, loan, bargain, contract, work, or insertion.

Any person who acts in contravention of this section shall be liable, on summary conviction, to a penalty not exceeding fifty pounds, and the said place of profit and his office as member or manager shall be vacant.\*

## THE CONSTITUTION OF SCHOOL BOARDS.

With respect to the constitution of a school board the following provisions (Clause 30) shall have effect :—

- (1.) The school board shall be a body corporate, by the name of the school board of the district to

which they belong, having a perpetual succession and a common seal, with power to acquire and hold land for the purposes of this Act without any licence in mortmain :

- (2.) No act or proceeding of the school board shall be questioned on account of any vacancy or vacancies in their body :
- (3.) No disqualification of or defect in the election of any persons or person acting as members or member of the school board shall be deemed to vitiate any proceedings of such board in which they or he have taken part, in cases where the majority of members parties to such proceedings were duly entitled to act :
- (4.) Any minute made of proceedings at meetings of the school board, if signed by any person purporting to be the chairman of the board, either at the meeting of the board at which such proceedings took place or at the next ensuing meeting of the board, shall be receivable in evidence in all legal proceedings without further proof, and until the contrary is proved every meeting of the school board, in respect of the proceedings of which minutes have been so made, shall be deemed to have been duly convened and held, and all the members thereof to have been duly qualified to act :
- (5.) The members of a school board may apply

any money in their hands for the purpose of indemnifying themselves against any law costs or damages which they may incur in or in consequence of the execution of the powers granted to them :

- (6.) The rules contained in the third schedule to this Act with respect to the proceedings of school boards, and the other matters therein contained, shall be observed.

### APPOINTMENT OF MANAGERS BY THE SCHOOL BOARD.

The school board may, if they think fit, from time to time delegate any of their powers under this Act, except the power of raising money, and in particular may delegate the control and management of any school provided by them, with or without any conditions or restrictions, to a body of managers appointed by them, consisting of not less than three persons.

The school board may from time to time remove all or any of such managers, and within the limits allowed by this section, add to or diminish the number of, or otherwise alter the constitution or powers of any body of managers formed by it under this section.

Any manager appointed under this section may resign on giving written notice to the board. The rules contained in the third schedule to this Act respecting the proceedings of bodies of managers appointed by a school board are to be observed.\*

## RULES REGULATING THE PROCEEDINGS OF SCHOOL BOARDS AND MANAGERS.

The following rules must be observed by school boards in the transaction of the business devolving upon them, and in the exercise of the powers conferred upon them by this Act. They are contained in the third schedule:—

### *Proceedings of School Board.*

1. The board shall meet for the despatch of business, and shall from time to time make such regulations with respect to the summoning, notice, place, management, and adjournment of such meetings, and generally with respect to the transaction and management of business, including the quorum at meetings of the board, as they think fit, subject to the following conditions:—

- (a.) The first meeting shall be held on the third Thursday after the election of the board, and if not held on that day shall be held on some day to be fixed by the Education Department:
- (b.) Not less than one ordinary meeting shall be held in each month; one meeting shall be held as soon as possible after every triennial election of members:
- (c.) An extraordinary meeting may be held at any time on the written requisition of three members of the board, addressed to the clerk of the board:

- (*d.*) The quorum to be fixed by the board shall consist of not less than three members, and in the case of the metropolis not less than nine members :
- (*e.*) Every question shall be decided by a majority of votes of the members present and voting on that question :
- (*f.*) The names of the members present, as well as of those voting upon each question, shall be recorded :
- (*g.*) No business involving the appointment or dismissal of a teacher, any new expense, or any payment (except the ordinary periodical payments), or any business which under this Act requires the consent of the Education Department, shall be transacted unless notice in writing of such business has been sent to every member of the board seven days at least before the meeting.

2. The board shall at their first meeting, and afterwards from time to time at their first meeting after each triennial election, appoint some person to be chairman, and one other person to be vice-chairman, for the three years for which the board hold office.

3. If any casual vacancy occurs in the office of chairman or vice-chairman, the board shall, as soon as they conveniently can, after the occurrence of such vacancy, choose one of their members to fill such vacancy, and every such chairman or vice-chairman so elected as last

aforesaid shall continue in office so long only as the person in whose place he may be so elected would have been entitled to continue if such vacancy had not happened.

4. If at any meeting the chairman is not present at the time appointed for holding the same, the vice-chairman shall be the chairman of the meeting; and if neither the chairman nor vice-chairman shall be present, then the members present shall choose some one of their number to be chairman of such meeting.

5. In case of an equality of votes at any meeting, the chairman for the time being of such meeting shall have a second or casting vote.

6. All orders of the board for payment of money, and all precepts issued by the board, shall be deemed to be duly executed if signed by two or more members of the board authorized to sign them by a resolution of the board, and countersigned by the clerk; but in any legal proceeding it shall be presumed, until the contrary is proved, that the members signing any such order or precept were authorized to sign them.

7. The appointment of any officer of the board may be made by a minute of the board, signed by the chairman of the board, and countersigned by the clerk (if any) of the board, and any appointment so made shall be as valid as if it were made under the seal of the board.

8. Precepts of the board may be in the form given at the end of this schedule.

*Proceedings of Managers appointed by a School Board.*

The managers may elect a chairman of their meetings. If no such chairman is elected, or if the chairman elected is not present at the time appointed for holding the same, the members present shall choose one of their number to be chairman of such meeting. The managers may meet and adjourn as they think proper. The quorum of the managers shall consist of such number of members as may be prescribed by the school board that appointed them, or, if no number be prescribed, of three members. Every question at a meeting shall be determined by a majority of votes of the members present and voting on that question, and in case of an equal division of votes the chairman shall have a second or casting vote.

The proceedings of the managers shall not be invalidated by any vacancy or vacancies in their number.

*Form of Precept.*

School district of \_\_\_\_\_ to wit.

To the council [*or* overseers, &c.] of the borough [*or* parish] of \_\_\_\_\_. These are to require you, the council [*or* overseers] of the borough [*or* parish] of \_\_\_\_\_, from and out of the moneys in the hands of your treasurer [*or* your hands], to pay on or before the \_\_\_\_\_ day of \_\_\_\_\_ into the hands of *A.B.*, treasurer of the school board of the said district, the sum of \_\_\_\_\_, being the amount required for the expenses of the said

school board up to the \_\_\_\_\_ of \_\_\_\_\_ 18 \_\_\_\_ ;  
and if there are no moneys in the hands of your trea-  
surer [*or your hands*], to raise the same by means of a  
rate.

(Signed) C. D., } Members of the school board of the  
E. F., } district of  
G. H., Clerk of the said school board.

## APPOINTMENT OF OFFICERS OF SCHOOL BOARD.

A school board may appoint a clerk and a treasurer and other necessary officers, including the teachers required for any school provided by such board, to hold office during the pleasure of the board, and may assign them such salaries or remuneration (if any) as they think fit, and may from time to time remove any of such officers ; but no such appointment shall be made, except at the first meeting of such board, unless notice in writing has been sent to every member of the board.

Two or more school boards may arrange for the appointment of the same person to be an officer to both or all such boards.

Such officers shall perform such duties as may be assigned to them by the board or boards who appoint them.\*

Every school board may also, if they think fit,

\* Sec. 35.

appoint an officer or officers to enforce any byelaws \* under this Act with reference to the attendance of children at school,† and to bring children who are liable under the Industrial Schools Act, 1866, to be sent to a certified industrial school before two justices in order to their being so sent, and any expenses incurred under this section may be paid out of the school fund.

## POWERS AND DUTIES OF SCHOOL BOARD.

Let us now suppose that the school board are duly elected, that their various officers are appointed, and that the body is in perfect working order. We have next to consider what they may do and ought to do—what, in short, are their powers and duties. Broadly stated, their duty is to supply sufficient and adequate school accommodation for their district, and for this purpose they are empowered to provide any schools which may be necessary.

The schools which they so establish, or which they take over from the present managers under the powers conferred upon them by Sec. 23 (*see* p. 88), are the only ones over which they have any authority. They have nothing to do with the schools founded and supported by voluntary effort, whether these schools do or do not receive a parliamentary grant. Indeed, the only way in which they can be duly brought into contact with

\* As to these byelaws, *see post*, p. 102.

† As to industrial schools and the classes of children liable to be sent there, *see* p. 95.

such schools, is that under Sec. 25 (*see* p. 93)—they may pay the school fees of children whose parents cannot pay for them, on account of poverty, at any public elementary schools.\* But they ought, nevertheless, to consider the existence of voluntary schools in determining whether it is or is not necessary to provide any, and if so what, new schools.

If the school board have been appointed after an inquiry on the part of the Education Department into the educational wants of the district, and after a decision (as the result of the inquiry) that certain schools are necessary, the school board will, immediately on its formation, receive from the Department a requisition to supply the deficiency. That requisition they are bound to obey on pain of being treated as a board in default.† And not only are they bound to obey this first requisition of the board; they are equally bound to comply with any subsequent requisition which the Department may address to them, should the returns from each district with which they are to be annually furnished lead them to the conclusion that additional schools are requisite.

A school board may, however, as we have seen, be appointed on the application of the council or the ratepayers; while, in London, the appointment of such a body is rendered compulsory by the Act. In either of these cases it will be the duty of the board to ascertain for itself what new schools are requisite. And however

\* As to which is a public elementary school, *see* p. 15.

† As to boards in default, *see* p. 127.

it may have come into existence, it is the duty of every board, when once at work, to take all steps that may be requisite in order to keep abreast of the educational wants of its district. In order to enable it to do so, it may provide whatever schools it may deem necessary. It will be the object of the sections immediately following to explain the conditions under which they must do this, the powers which they possess to enable them to do it, the mode in which they are to obtain the requisite means, and the consequences of any neglect of duty on their part.

## REGULATIONS UNDER WHICH SCHOOLS ESTABLISHED BY THE BOARD ARE TO BE CONDUCTED—PROVISION AS TO RELIGIOUS INSTRUCTION.

The discretion possessed by the school board with respect to the *number* of schools they shall establish, does not extend to the *kind* of school they shall maintain, or to the nature of the religious instruction which shall be given in them.

It is enacted by the 14th clause that—

“Every school provided by a school board shall be conducted under the control and management of such board in accordance with the following regulations:—

- (1.) The school shall be a public elementary school within the meaning of this Act :
- (2.) No religious catechism or religious formulary which is distinctive of any particular denomination shall be taught in the school.”

We have already explained what is meant by a "public elementary school." It is, in general terms, a school open at all times to the inspection of Her Majesty's inspectors, conducted in accordance with the conditions required to be fulfilled by an elementary school, in order to obtain an annual parliamentary grant, and submitting to a time-table conscience clause.\* Subject to that conscience clause, the creed of any religious denomination may, however, as we have seen, be taught to the fullest extent in schools established by voluntary effort. In the schools established by the school boards, and supported by the rates, no "*religious catechism or religious formulary which is distinctive of any particular denomination*" must be taught even in "the time or times during which religious observance is practised, or instruction in religious subjects is given at any meeting of the school, either at the beginning or at the end, or at the beginning and the end of such meeting." It does not, however, follow that no definite religious teaching may be given—subject always to the right of the parents of any child to withdraw him or her from the school while it is in progress. So long as a teacher does not use any "religious catechism or formulary," he is at liberty—or rather the school board may, if they choose, permit him—not merely to read the Holy Scriptures, but to expound them in any sense which he or they may think fit. At the same time, the school board may, if they like, confine the master to the reading of the Bible "without note or comment ;"

\* See *ante*, p. 16.

or may even forbid his giving any religious instruction whatever. The more, the less, or the none at all, are, in fact, under this clause, entirely at the discretion of the school board; *i. e.*, with the one qualification stated in the second branch of the clause. If, however, they overstep the discretion allowed to them, and either permit religious instruction of the kind forbidden by the clause to be given in their schools, or interfere with the free withdrawal of children whose parents object, during the time that legitimate religious instruction takes place, or if they in any way contravene any of the regulations of the Act under which their schools are required to be conducted, the Education Department may treat them as in default, and may proceed accordingly.\* Any dispute as to whether the school board have or have not complied with the law on this point is to be referred to the Education Department, whose decision is final.

Although the school boards have, beyond doubt, the discretion which we have ascribed to them with regard to the religious teaching to be given in their schools, it may not be useless, and it will certainly be interesting, to see what is the sort of religious education or instruction which the authors of the Bill contemplate as coming within the spirit of the clause, and as desirable to be given under it. The best exposition of these views and intentions will be found in a speech of Mr. Gladstone's, reported

\* See for the "Neglect by Board of Regulations of Public Elementary Schools," p. 78; and "Proceedings against School Board in Default," p. 127.

in *Hansard*, vol. CCIH., p. 125. The right hon. gentleman said :—" My right hon. friend near me (Mr. W. E. Forster), has said that the Government sympathized with the desire for unsectarian teaching in schools, and I am prepared to support that statement in what I conceive to be its true sense—namely, it is our wish that the exposition of the Bible in schools should take its natural course ; that it should be confined to the simple and devout method of handling, which is adapted to the understandings and characters of children ; but we do not admit that the simple and devout character of teaching can be secured by an attempt to exclude all reference to tenets and doctrines. That is an exclusion which cannot be effected, and if it could, it ought not to be ; it is an invasion of the freedom of religious teaching such as ought not to be tolerated in this country ; and those who attempt to sustain it in argument, whether as between party and party in this House, or as between one branch of the legislature and another, will find themselves shattered and discomfited the moment they attempt to bring to the tribunal of reason a proposition to establish by law a system so forced and unnatural as a definition of that kind would make it. I draw the strongest and broadest possible distinction between such an attempt to define what is undefinable—such an attempt to settle by words in an Act of Parliament what no words in an Act of Parliament can reach—and the practical object we have in view, of giving to the course of instruction in schools that

natural flow which we think will be in a great degree—and almost as an universal rule—attained by the provision which now stands in the Bill. . . . Has the British and Foreign School Society itself found it practicable to provide that there shall be no exposition of Scripture in its schools? . . . Whatever its desire may be, the British and Foreign School Society has found it impossible, in its general rules, to go beyond that one point—beyond the language in which the committee is invited to legislate—namely, to provide for the reading of the Scriptures, and to exclude the use of catechisms and distinctive formularies, but not beyond these to impose limitations upon the freedom of teaching. If we are to have teachers who are really to teach religion, that religion must spring out of their own hearts and consciences, and it will not submit to be confined by definitions so artificial and unreal as these.\* How is a conscientious man to determine what are the motives by which he may support the precepts of Scripture when dealing with a child? He must, when he finds occasion, refer to the motive of fear, to the motive of hope, and, above all, to the motive of love; and it is impossible that he can speak of any one of these motives without exposing himself to a doubt—which as an honourable and conscientious man he will deeply feel, and cannot

\* Alluding to an amendment proposed by Mr. Jacob Bright, providing that the exposition or teaching “shall not be used in favour of or against the distinctive teaching of any religious denomination.”

submit to—whether the manner in which he finds it necessary to appeal to one or other of these motives is or is not involving him in the distinctive tenets of any religious denomination. The commonest justice requires—if these men are not meant to be mere serfs, but honourable and Christian men—that if they are to work under such a system, you shall undertake beforehand to define for their guidance what are those tenets which they are to avoid, and what are the limits of those pastures within which they are to be permitted to expatiate. . . . I do not at all deny that the proposal we make is open to much comment and much criticism; but what I wish to point out is this: it gives, practically, full security for conscience; it does not impose upon religious teaching that kind of restriction which would reduce it to a formality, which would deprive it of all its life, and which the British and Foreign School Society, although aiming at unsectarianism, has found it impracticable to adopt.”

It will, of course, from what we have already said, be clearly understood that in the above passage the Premier was only describing what the school boards *may*, and what he hoped they *will* permit; he did not mean to deny that *it is open to them, if they choose*, to confine the religious teaching to the mere reading of Scripture, which he deprecates as a formality; or even to exclude it altogether, and limit the education in these schools to *secular* instruction alone.

## NEGLECT BY BOARD OF REGULATIONS OF PUBLIC ELEMENTARY SCHOOLS.

If the school board do or permit any act in contravention of, or fail to comply with, the regulations according to which a school provided by them is required by this Act to be conducted, the Education Department may declare the school board to be, and such board shall accordingly be, deemed to be a board in default, and the Education Department may proceed accordingly; and every act or omission of any member of the school board, or manager appointed by them, or any person under the control of the board, shall be deemed to be permitted by the board, unless the contrary be proved.

If any dispute arises as to whether the school board have done or permitted any act in contravention of, or have failed to comply with, the said regulations, the matter shall be referred to the Education Department, whose decision thereon shall be final.\*

This is the clause referred to in the last section as giving the Education Department power to prevent the violation by a school board of any of the regulations under which a school established by them is to be conducted.

## SCHOOL BOARDS TO MAINTAIN THEIR SCHOOLS AND SUPPLY SUFFICIENT SCHOOL ACCOMMODATION.

The school board must maintain and keep efficient

\* Sec. 16.

every school provided by them, and must from time to time provide such additional school accommodation as is, in their opinion, necessary in order to supply a sufficient amount of public school accommodation for their district.

A school board may discontinue any school provided by them, or change the site of any such school, if they satisfy the Education Department that the school to be discontinued is unnecessary, or that such change of site is expedient.

If at any time the Education Department are satisfied that a school board have failed to perform their duty, either by not maintaining or keeping efficient every school provided by them, or by not providing such additional school accommodation as in the opinion of the Education Department is necessary in order to supply a sufficient amount of public school accommodation in their district, the Education Department may send them a requisition requiring them to fulfil the duty which they have so failed to perform; and if the school board fail within the time limited by such requisition, not being less than three months, to comply therewith to the satisfaction of the Education Department, such board shall be deemed to be a school board in default,\* and the Education Department may proceed accordingly.†

\* See p. 127.

† Sec. 18.

## POWERS OF SCHOOL BOARDS FOR PROVIDING SCHOOLS; INCLUDING THEIR POWERS FOR THE COMPULSORY PURCHASE OF SITES.

Every school board, for the purpose of providing sufficient public school accommodation for their district, whether in obedience to any requisition or not, may provide, by building or otherwise, school-houses properly fitted up, and improve, enlarge, and fit up any school-house provided by them, and supply school apparatus and everything necessary for the efficiency of the schools provided by them, and purchase and take on lease any land, and any right over land, or may exercise any of such powers.\*

With respect to the purchase of land by school boards for the purposes of this Act, the following provisions are (under Sec. 20) to have effect; (that is to say,)

- (1.) The Lands Clauses Consolidation Act, 1845, and the Acts amending the same, shall be incorporated with this Act, except the provisions relating to access to the special Act; and in construing those Acts for the purposes of this section, the special Act shall be construed to mean this Act, and the promoters of the undertaking shall be construed to mean the school board, and land shall be construed to include any right over land:

\* Sec. 19.

(2.) The school board, before putting in force any of the powers of the said Acts with respect to the purchase and taking of land otherwise than by agreement, shall—

(a.) Publish, during three consecutive weeks in the months of October and November, or either of them, a notice describing shortly the object for which the land is proposed to be taken, naming a place where a plan of the land proposed to be taken may be seen at all reasonable hours, and stating the quantity of land that they require ; and shall further,

(b.) After such publication, serve a notice in manner mentioned in this section on every owner or reputed owner, lessee or reputed lessee, and occupier of such land, defining in each case the particular land intended to be taken, and requiring an answer stating whether the person so served assents, dissents, or is neuter in respect of taking such land ;

(c.) Such notice shall be served—

(i.) By delivery of the same personally on the person required to be served, or, if such person is absent abroad, to his agent ; or,

(ii.) By leaving the same at the usual or last known place of abode of such person as aforesaid, or by forwarding the same by

post in a registered letter, addressed to the usual or last known place of abode of such person :

- (3.) Upon compliance with the provisions contained in this section with respect to notices, the school board may, if they think fit, present a petition under their seal to the Education Department, praying that an order may be made authorizing the school board to put in force the powers of the said Acts with respect to the purchase and taking of land otherwise than by agreement, so far as regards the land therein mentioned ; the petition shall state the land intended to be taken and the purposes for which it is required, and the names of the owners, lessees, and occupiers of land who have assented, dissented, or are neuter in respect of the taking of such land, or who have returned no answer to the notice, and shall be supported by such evidence as the Education Department may from time to time require :
- (4.) If, on consideration of the petition and proof of the publication and service of the proper notices, the Education Department think fit to proceed with the case, they may, if they think fit, appoint some person to inquire in the district in which the land is situate respecting the propriety of the proposed

order, and also direct such person to hold a public inquiry :

- (5.) After such consideration and proof, and after receiving a report made upon any such inquiry, the Education Department may make the order prayed for, authorizing the school board to put in force with reference to the land referred to in such order the powers of the said Acts with respect to the purchase and taking of land otherwise than by agreement, or any of them, and either absolutely or with such conditions and modifications as they may think fit ; and it shall be the duty of the school board to serve a copy of any order so made in the manner and upon the persons in which and upon whom notices in respect of the land to which the order relates are required by this Act to be served :
- (6.) No order so made shall be of any validity unless the same has been confirmed by Act of Parliament ; and it shall be lawful for the Education Department, as soon as conveniently may be, to obtain such confirmation, and the Act confirming such order shall be deemed to be a public general Act of Parliament :
- (7.) The Education Department, in case of their refusing or modifying such order, may make such order as they think fit for the allowance

of the costs, charges, and expenses of any person whose land is proposed to be taken of and incident to such application and inquiry respectively :

- (8.) All costs, charges, and expenses incurred by the Education Department in relation to any order under this section shall, to such amount as the Commissioners of Her Majesty's Treasury think proper to direct, and all costs, charges, and expenses of any person which shall be so allowed by the Education Department as aforesaid, shall become a charge upon the school fund of the district to which such order relates, and be repaid to the said Commissioners of Her Majesty's Treasury or to such person respectively, by annual instalments not exceeding five, together with interest after the yearly rate of five pounds in the hundred, to be computed from the date of any such direction of the said Commissioners, or allowance of such costs, charges, and expenses respectively, upon so much of the principal sum due in respect of the said costs, charges, and expenses as may from time to time remain unpaid.

The School Sites Acts, as defined in the fourth schedule to this Act, shall apply in the same manner as if the school board were trustees or managers of a

school within the meaning of those Acts, and land may be acquired under any of the Acts mentioned in this section, or partly under one and partly under another Act.\*

For the purpose of the purchase by the managers of any public elementary school of a school-house for such school, or a site for the same, "The Lands Clauses Consolidation Act, 1845," and the Acts amending the same (*except so much as relates to the purchase of land otherwise than by agreement*), are incorporated with this Act; and in construing those Acts for the purposes of this section (21) the special Act is to be construed to mean this Act, and the promoters of the undertaking are to be construed to mean such managers, and land shall be construed to include any right over land.

The conveyance of any land so purchased may be in the form prescribed by the School Sites Acts, or any of them, with this modification, that the conveyance shall express that the land shall be held upon trust for the purposes of a public elementary school within the meaning of this Act, or some one of such purposes which may be specified, and for no other purpose whatever.

Land may be acquired under the Acts incorporated with this section, or under the School Sites Acts, or any of them, or partly under one and partly under another Act.

Any persons desirous of establishing a public elementary school shall be deemed to be managers for the

\* Sec. 20.

purpose of this section if they obtain the approval of the Education Department to the establishment of such school.\*

The provisions of the Charitable Trusts Acts, 1853 to 1869, which relate to the sale, leasing, and exchange of lands belonging to any charity, extend to the sale, leasing, and exchange of the whole or any part of any land or school-house belonging to a school board which may not be required by such board, with this modification, that the Education Department are for the purposes of this section deemed to be substituted in those Acts for the Charity Commissioners.†

By the above provisions school boards are empowered to acquire sites for schools, not only by agreement, but by compulsory purchase, under the "Lands Clauses Consolidation Act, 1845," and the amending Acts (8 Vic., c. 18 ; 23 & 24 Vic., c. 106 ; and 32 & 33 Vic., c. 18). The conditions to be fulfilled before proceeding under these Acts can be taken are, however, very troublesome and inconvenient, not merely from the number of formalities required to be gone through, and the length of notice necessary to be given, but because those notices can only be given, and the first steps to make a purchase commenced, during the months of

\* Sec. 21. Although this clause is inserted in the portion of the Act relating to the compulsory purchase of land by school boards, its effect is to facilitate to a limited extent the acquisition of land (in conformity with the Lands Clauses Consolidation Act, and the School Sites Act) by the managers of all "Public Elementary Schools."

† Sec. 22.

October and November, or either of them. Under these circumstances, it is not likely that these Acts will be much availed of, until proceedings under them are materially facilitated. No doubt this will be done, if it is found that there are any districts in the country where sites for schools cannot be obtained by agreement with the landowners. In the meantime it will be quite sufficient, in a work like the present, to give our readers the means of referring to them, which we have already done. School boards and managers may avail themselves of the "Lands Clauses Act," so far as purchases by agreement go. And both school boards and school managers can purchase under the "School Sites Acts," as defined in the fourth schedule to the present Act. We give in the Appendix \* the schedule in question, which contains a list of these Acts. It will be sufficient for our present purpose to say that they are a series of Acts which enable owners of limited estates, persons under disability, the Chancellor and Counsel of the Duchy of Lancaster, the officers of the Duchy of Cornwall, corporations, justices, and trustees, to convey limited portions of land in fee simple as sites for schools. As no sales by, or purchases from, them are ever likely to be made except under legal advice, it would be useless to encumber the pages of a popular work like the present with their provisions. The schedule enables any one who desires or has occasion to consult them.

\* See Appendix VI.

## MANAGERS MAY TRANSFER SCHOOLS TO SCHOOL BOARD.

Besides the schools which they themselves establish, the school boards may acquire others by transfer from the managers or trustees. It is not improbable that, in districts where the conduct of the school board commands confidence, that power will be largely taken advantage of, since the managers of schools will by this means be enabled to throw upon the rates so much of the charge of maintaining the school as has hitherto been borne by subscriptions; while, on the other hand, the school board, rather than see the closing of a good school—probably rendering it necessary for them to open one of their own in its place—would, in many cases at all events, prefer to take it over as a going concern, and thus to save themselves the heavy outlay which must always attend the establishment of a new school—an outlay which, it must be borne in mind, would in all cases, and to the whole extent, be a charge upon the rates. The conditions under which these transfers may be made are contained in the 23rd clause, which will be found to contain ample security against any transfer by the managers of a school which would be improper or unfair as against any of the subscribers, trustees, or others interested in it. It is as follows :—

“The managers of any elementary school in the district of a school board may, in manner provided by

this Act, make an arrangement with the school board for transferring their school to such school board, and the school board may assent to such arrangement.

An arrangement under this section may be made by the managers by a resolution or other act as follows (that is to say),—

- (1.) Where there is any instrument declaring the trusts of the school, and such instrument provides any manner in which or any assent with which a resolution or act binding the managers is to be passed or done, then in accordance with the provisions of such instrument :
- (2.) Where there is no such instrument, or such instrument contains no such provisions, then in the manner and with the assent, if any, in and with which it may be shown to the Education Department to have been usual for a resolution or act binding such managers to be passed or done :
- (3.) If no manner or assent can be shown to have been usual, then by a resolution passed by a majority of not less than two-thirds of those members of their body who are present at a meeting of the body summoned for the purpose, and vote on the question, and with the assent of any other person whose assent under the circumstances appears to the Education Department to be requisite.

And in every case such arrangement shall be made only—

- (1.) With the consent of the Education Department; and,
- (2.) If there are annual subscribers to such school, with the consent of a majority, not being less than two-thirds in number, of those of the annual subscribers who are present at a meeting duly summoned for the purpose, and vote on the question.

Provided that where there is any instrument declaring the trusts of the school, and such instrument contains any provision for the alienation of the school by any persons, or in any manner, or subject to any consent, any arrangement under this section shall be made by the persons in the manner and with the consent so provided.

Where it appears to the Education Department that there is any trustee of the school who is not a manager, they shall cause the managers to serve on such trustee, if his name and address are known, such notice as the Education Department thinks sufficient; and the Education Department shall consider and have due regard to any objections and representations he may make respecting the proposed transfer.

The Education Department shall consider and have due regard to any objections and representations respecting the proposed transfer which may be made by any person who has contributed to the establishment of such school.

After the expiration of six months from the date of transfer, the consent of the Education Department shall be conclusive evidence that the arrangement has been made in conformity with this section.

An arrangement under this section may provide for the absolute conveyance to the school board of all the interest in the school-house possessed by the managers, or by any person who is trustee for them or for the school, or for the lease of the same, with or without any restrictions, and either at a nominal rent or otherwise, to the school board, or for the use by the school board of the school-house during part of the week, and for the use of the same by the managers or some other person during the remainder of the week, or for any arrangement that may be agreed on. The arrangement may also provide for the transfer or application of any endowment belonging to the school, or for the school board undertaking to discharge any debt charged on the school not exceeding the value of the interest in the school-house or endowment transferred to them.

When an arrangement is made under this section, the managers may, whether the legal interest in the school-house or endowment is vested in them or in some person as trustee for them or the school, convey to the school board all such interest in the school-house and endowment as is vested in them, or in such trustee, or such smaller interest as may be required under the arrangement.

Nothing in this section shall authorize the managers to transfer any property which is not vested in them,

or a trustee for them, or held in trust for the school ; and where any person has any right given him by the trusts of the school to use the school for any particular purpose independently of such managers, nothing in this section shall authorize any interference with such right except with the consent of such person.

Every school so transferred shall, to such extent and during such times as the school board have under such arrangement any control over the school, be deemed to be a school provided by the school board."

After a school has been transferred to a school board, circumstances may arise which render it desirable that it should cease to belong to or to be conducted by the school board. This case is met by the 24th clause, which provides that—

"Where any school, or any interest therein, has been transferred by the managers thereof to the school board of any school district, in pursuance of this Act, the school board of such district may, by a resolution passed as hereinafter mentioned, and with the consent of the Education Department, re-transfer such school, or such interest therein, to a body of managers qualified to hold the same under the trusts of the school as they existed before such transfer to the school board, and upon such re-transfer may convey all the interest in the school-house and in any endowment belonging to the school vested in the school board.

"A resolution for the purpose of this section may be

passed by a majority of not less than two-thirds of those members of the school board who are present at a meeting duly convened for the purpose, and vote on the question.

“The Education Department shall not give their consent to any such re-transfer unless they are satisfied that any money expended upon such school out of a loan raised by the school board of such district has been or will, on the completion of the re-transfer, be repaid to the school board.

“Every school so re-transferred shall cease to be a school provided by a school board, and shall be held upon the same trusts on which it was held before it was transferred to the school board.”

## THE PAYMENT OR REMISSION OF SCHOOL FEES.

### *Boards may establish Free Schools.*

The Elementary Education Act does not as a *rule* contemplate the gratuitous education of children. Its framers distinctly stated their opinion, which was endorsed by Parliament, that it is on many accounts desirable that parents should, so far as their means allow, defray at least a portion of the cost of their children's education. At the same time, it was also felt that it would not only be a scandal, but that it would in a great measure defeat the objects of the Act, if provision were not made for the case of children whose parents are not unwilling, but really unable to

bear any part of the charge. Both cases are fully met by the following clauses, which, while they make payment the rule, give ample power to the school board either to remit fees in their own schools, to pay them for children attending other schools, or even to establish entirely free schools in very poor districts.

Every child attending a school provided by any school board shall pay such weekly fee as may be prescribed by the school board, with the consent of the Education Department; but the school board may from time to time, for a renewable period not exceeding six months, remit the whole or any part of such fee in the case of any child, when they are of opinion that the parent of such child is unable from poverty to pay the same, but such remission shall not be deemed to be parochial relief given to such parent.\*

The school board may, if they think fit, from time to time, for a renewable period not exceeding six months, pay the whole or any part of the school fees payable at any public elementary school by any child resident in their district whose parent is in their opinion unable from poverty to pay the same; but no such payment shall be made or refused on condition of the child attending any public elementary school other than

\* Sec. 17. The provision requiring the assent of the Education Department to the amount of the school fee was, no doubt, introduced with a view to prevent an exorbitant charge being made by a school board more anxious to keep down the rates than to educate the people. It is to be hoped, rather than anticipated, that no school board will need such a check.

such as may be selected by the parent; and such payment shall not be deemed to be parochial relief given to such parent.\*

If a school board *satisfy the Education Department* that, on the ground of the poverty of the inhabitants of any place in their district, it is expedient for the interests of education to provide a school at which no fees shall be required from the scholars, the board may, subject to such rules and conditions as the Education Department may prescribe, provide such school, and may admit scholars to such school without requiring any fee.†

## INDUSTRIAL SCHOOLS.‡

*School Boards may contribute to, or establish them.*

But little would have been done to meet the case of

\* Sec. 25. As there are no means, except through the establishment of a school board, of assisting the poor to defray the costs of educating their children by payments out of the rates, or any other public fund, this is one of the reasons which, as we have already pointed out, render it desirable that such boards should be established in many districts where there is ample school accommodation.

† Sec. 26. In the course of his speech on the introduction of the Bill, Mr. Forster, after stating that he expected this clause to come into operation chiefly in the poverty-stricken districts of large towns, explained that the Government had not thought it right to confer upon the school boards an unrestricted power of establishing free schools, because they thought it would not be fair to the existing schools to allow a free school to be set up unless on special grounds.

‡ According to the Industrial Schools Act, 1866, "a school

the lowest and most neglected class of children—street Arabs, as it is the fashion to call them—had the Act stopped at the point we have reached. In order to deal at all effectually with these children, it is absolutely necessary that they should not only be brought to school, but they should be separated, and kept separated, from their evil associations—often, unfortunately, those of their own families. This can only be done by their detention in industrial schools, where they can be fed, clothed, and decently brought up, as well as educated in the more ordinary and restricted sense of the word; and any system of national education would therefore have been incomplete which did not give the local school boards the power of assisting or establishing these most useful institutions. They have, under the Elementary Education Act, the power to do both.

*Firstly*, it is provided by clause 27 that—

A school board shall have the same powers of contributing money in the case of an industrial school as is given to a prison authority by Sec. 12 of the Industrial Schools Act, 1866; \* and upon the election in which industrial training is provided, and in which children are lodged, clothed, and fed, as well as taught, shall exclusively be deemed an industrial school within the meaning of this Act.” The same definition will apply under the Elementary Education Act, 1870.

\* The section in question, so far as it is applicable to the present Act, is as follows:—

“In England a prison authority may from time to time contribute such sums of money, and on such conditions as they think fit, towards the alteration, enlargement, or rebuilding of a certified industrial school, or towards the support of

of a school board in a borough, the council of that borough shall cease to have power to contribute under that section.

*Secondly*—Under Sec. 28 a school board may, with the consent of the Education Department, establish, build, and maintain a certified industrial school within the meaning of the Industrial Schools Act, 1866, and shall for that purpose have the same powers as they have for the purpose of providing sufficient

the inmates of such a school, or towards the management of such a school, or towards the establishment or building of a school intended to be a certified industrial school, or towards the purchase of land required either for the use of an existing certified industrial school, or for the site of a school intended to be a certified industrial school ; provided,—

“First, that not less than two months’ previous notice of the intention of the prison authority to take into consideration the making of such contribution, at a time and place to be mentioned in such notice, be given by advertisement in some one or more public newspaper or newspapers circulated within the district of the county or borough, and also in the manner in which notices relating to business to be transacted by the prison authority are usually given :

“Secondly, that where the prison authority is the council of a borough, the order for the contribution be made at a special meeting of the council :

“Thirdly, that where the contribution is for alteration, enlargement, rebuilding, establishment, or building of a school or intended school, or for purchase of land, the approval of the Secretary of State be previously given for that alteration, enlargement, rebuilding, establishment, building, or purchase.”

school accommodation for their district : \* provided that the school board, so far as regards any such industrial school, shall be subject to the jurisdiction of one of Her Majesty's Principal Secretaries of State † in the same manner as the managers of any other industrial schools are subject, and such school shall be subject to the provisions of the said Act, and not of this Act.

The cost of maintaining an industrial school established by a school board will not fall entirely upon the rates, for, by Sec. 35 of the Industrial Schools Act, 1866,—

“The Commissioners of Her Majesty's Treasury may

\* A school will not be deemed a “certified industrial school” until the Secretary of State (acting on the report of an inspector), certifies it as fit for the reception of children. Unless it is so certified no children can be sent to it. The Secretary of State appoints an inspector of certified industrial schools, and, if dissatisfied with the condition of any of them, he may at any time, by notice under his hand addressed to and served on the managers thereof, declare that the certificate of the school is withdrawn as from a time specified in such notice, not being less than six months after the date thereof, and at that time the certificate will be deemed withdrawn, and the school will, therefore, cease to be a certified industrial school. The plans of any intended industrial school, or of any alteration of an existing one, must be submitted for the approval of the Secretary of State. The rules for the management of an industrial school made by its managers cannot be enforced or altered without the approval of the Secretary of State ; and the same functionary has the power to order an inmate of an industrial school either to be discharged or to be transferred from one establishment to another.

from time to time contribute, out of money provided by Parliament for the purpose, such sums as the Secretary of State from time to time thinks fit to recommend towards the custody and maintenance of children detained in certified industrial schools; provided that such contributions shall not exceed two shillings per head per week for children detained on the application of their parents, step-parents, or guardians."

By Sec. 39,—

"In England a prison authority may contract with the managers of a certified industrial school for the reception and maintenance therein of such children as are from time to time ordered by justices to be sent there from the district of the prison authority."

By Sec. 37,—

"The guardians of the poor of a union or parish, or the board of management of a district pauper school, or the parochial board of a parish or combination, may from time to time, with the consent in England of the Poor Law Board, and in Scotland of the Board of Supervision, contribute such sums as they think fit towards the maintenance of children detained in a certified industrial school on their application."

And lastly, by Sec. 39,—

"The parent, step-parent, or other person for the time being legally liable to maintain a child detained in a certified industrial school shall, if of

sufficient ability, contribute to his maintenance and training therein a sum not exceeding five shillings per week.”

With regard to the classes of children who may be sent to and detained in industrial schools, Sec. 14 of the Industrial Schools Act provides that *any person* may bring before two justices or a magistrate any child apparently under the age of fourteen years that comes within any of the following descriptions:—(1) that is found begging or receiving alms (whether actually or under the pretext of selling or offering for sale anything), or being in any street or public place for the purpose of so begging or receiving alms; or (2) that is found wandering and not having any home or settled place of abode, or proper guardianship, or visible means of support; or (3) that is found destitute, either being an orphan or having a surviving parent who is undergoing penal servitude or imprisonment; or (4) that frequents the company of reputed thieves. If the justices or magistrate are satisfied that it is expedient to do so, they may send such child to an industrial school, and they may exercise a similar power where a child, apparently under the age of twelve years, is charged before them with an offence punishable by imprisonment or a less punishment, but has not been convicted of felony.

Where the parent or step-parent or guardian of a child apparently under the age of fourteen years represents to two justices or a magistrate that he is unable to

control the child, and that he desires that the child be sent to an industrial school; or where the guardians of the poor represent that any child apparently under the age of fourteen years maintained in a workhouse or pauper school is refractory, or is the child of parents either of whom has been convicted of a crime or offence punishable with penal servitude or imprisonment.

We have already seen (*ante*, p. 70) that the school board has power to appoint an officer to bring children who are liable, under the Industrial Schools Act, 1866, to be sent to a certified industrial school, before two justices, or a magistrate in order to their being so sent.

## ATTENDANCE AT SCHOOL—COMPULSORY EDUCATION.

There is no provision in the Act for enforcing the attendance of children at school in any district for which a school board has not been elected. This is another, and one of the principal reasons for calling such a body into play; in, to say the least, a very large proportion of the districts throughout the kingdom. At the same time, it does not follow that anything will be done in the direction of compulsory education because there is a school board in the district. The powers conferred by the only section which bears upon the subject are strictly permissive; the boards are at perfect liberty to exercise their own discretion as to whether they will use them, or allow them to lie dormant.

Sec. 74 provides that every school board may from

time to time, *with the approval of the Education Department*, make bye-laws for all or any of the following purposes :—

- (1.) Requiring the parents of children of such age, not less than five years nor more than thirteen years, as may be fixed by the bye-laws, to cause such children (unless there is some reasonable excuse) to attend school :
- (2.) Determining the time during which children are so to attend school ; provided that no such bye-law shall prevent the withdrawal of any child from any religious observance or instruction in religious subjects, or shall require any child to attend school on any day exclusively set apart for religious observance by the religious body to which his parent belongs, or shall be contrary to anything contained in any Act for regulating the education of children employed in labour :
- (3.) Providing for the remission or payment of the whole or any part of the fees of any child where the parent satisfies the school board that he is unable from poverty to pay the same :
- (4.) Imposing penalties for the breach of any bye-laws :
- (5.) Revoking or altering any bye-law previously made.

Provided that any bye-law under this section requiring a child between ten and thirteen years of age to attend school, shall provide for the total or partial exemption of such child from the obligation to attend school if one of Her Majesty's inspectors certifies that such child has reached a standard of education specified in such bye-law. Any of the following reasons shall be a reasonable excuse ; namely,—

- (1.) That the child is under efficient instruction in some other manner :
- (2.) That the child has been prevented from attending school by sickness or any unavoidable cause :
- (3.) That there is no public elementary school open which the child can attend within such distance, not exceeding three miles, measured according to the nearest road from the residence of such child, as the bye-laws may prescribe.

The school board, not less than one month before submitting any bye-law under this section for the approval of the Education Department, shall deposit a printed copy of the proposed bye-laws at their office for inspection by any ratepayer, and supply a printed copy thereof gratis to any ratepayer, and shall publish a notice of such deposit.

The Education Department, before approving of any bye-laws, shall be satisfied that such deposit has been made and notice published, and shall cause such inquiry to be made in the school district as they think requisite.

Any proceeding to enforce any bye-law may be taken, and any penalty \* for the breach of any bye-law, may be recovered in a summary manner; but no penalty imposed for the breach of any bye-law shall exceed such amount as with the costs will amount to five shillings for each offence, and such bye-laws shall not come into operation until they have been sanctioned by Her Majesty in Council.

It shall be lawful for Her Majesty, by Order in Council, to sanction the said bye-laws, and thereupon the same shall have effect as if they were enacted in this Act.

All bye-laws sanctioned by Her Majesty in Council under this section shall be set out in an appendix to the annual report of the Education Department.†

### UNITED SCHOOL DISTRICTS.

Where the Education Department are of opinion that it would be expedient to form a school district larger than a borough or a parish, or any school district formed under this Act, they may, except in the metropolis, by order made after such inquiry and notice as hereinafter mentioned, form a united school district by uniting any two or more adjoining school districts, and upon such union cause a school board to be formed for such united school district.

\* Of course, until the sanction has been given in the manner pointed out towards the end of the clause, no bye-laws will be valued, and no penalties can be recovered for their breach.

† As to the recovery of penalties under the Act, *see post* p. 136.

A united school district shall for all the purposes of this Act be deemed to be a school district, and shall throughout this Act be deemed to be substituted for the school districts out of which it is constituted, and the school board of the united school district shall be the school board appointed under this Act, and the local rate and rating authority for the united district shall be in each of the constituent districts thereof, the same as if such constituent district did not form part of the united school district.\*

The Education Department, as soon as may be after the passing of this Act, may cause inquiry to be made into the expediency of uniting any two or more school districts, and if after such inquiry they are of opinion that it would be expedient to unite any such school districts, they shall in the notice of their decision as to the public school accommodation for such districts state that they propose to unite such districts ; and the provisions of this Act with respect to the application for a public inquiry by persons aggrieved by the said

\* Sec. 40. The powers possessed by the Education Department under this series of clauses will probably be principally exercised either in regard to small country parishes, or in uniting to boroughs parishes not included within the municipal boundary, but lying immediately adjacent and closely identified with the borough in interest and local associations. The clause speaks of "school districts" generally ; it makes no distinction between those in which there are and those in which there are not school boards. As to the inquiry and notice required under this section, *see ante* pp. 30 and 33. As to the local rate and the rating authority, *see* Schedule I., p. 13.

notice, and to the holding of such public inquiry, and to the final notice, shall apply in the case of the proposed union of districts, with this qualification, that it shall not be necessary to cause a public inquiry to be held with respect to the union of districts until after the expiration of the period allowed by the final notice for the supply of the school accommodation. The order for the union may be made at the time when the Education Department are first authorized to cause a school board to be formed, or subsequently. Where a union of districts is proposed the Education Department shall consider whether any public school accommodation is required for the area proposed as the united district, instead of for each of the districts constituting such area, and their decision as to the public school accommodation and the notice of such decision shall accordingly refer to such area, and not separately to each of the constituent districts.\*

The Education Department may, by order made after such inquiry and notice as hereinafter mentioned, dissolve a united school district, and may deal with the constituent districts thereof in the same manner as if they had never been united, and may cause school boards to be elected therein.†

The Education Department may at any time, after any proceedings after the first returns under this Act, if they think fit, cause inquiry to be made into the expediency of forming or dissolving a united school district, and where they propose at any time after such

\* Sec. 41.

† Sec. 42.

inquiry to form or dissolve a united school district, they shall publish notice of the proposed order not less than three months before the order is made ; the like persons as are authorized to apply for a public inquiry after the first returns made under this Act may, if they feel aggrieved by the proposed order, apply in like manner for a public inquiry, and the Education Department shall cause a public inquiry to be held, and shall consider the report made to them upon such inquiry before they make the order for such formation or dissolution.\*

Any order of the Education Department forming or dissolving a united district shall be evidence of the formation or dissolution of such district, and after the expiration of three months from the date of such order the district shall be presumed to have been duly formed or dissolved, as the case may be, and no objection to the formation or dissolution thereof shall be entertained in any legal proceedings whatever.†

The provisions in this Act respecting the constitution of the school board shall apply to the constitution of the school board in a united school district, and the name of the district shall be such as may be prescribed by the Education Department.‡

In a united school district the school board shall be such number of members elected by the electors of the district as may be specified in the order forming the district, subject nevertheless to alteration in the same

\* Sec. 43.

† Sec. 44.

‡ Sec. 45. As to the constitution of the school board, *see* p. 62.

manner as in the case of any other school board ; and every person who in any of the districts constituting such united district would be entitled if it were not united to vote at the election of members of a school board for such constituent district, shall be an elector for the purposes of this section, and the provisions of this Act respecting the election of a school board in a district shall extend to the election of such members.\*

Where any part of a proposed united school district includes any district or part of a district in which there is a school board already acting under this Act, or where a united school district is dissolved, the Education Department may by order dissolve the then existing school board, or make all necessary changes in the constitution of such existing school board, and may by order make proper arrangements respecting the schools, property, rights, and liabilities of such board, and all arrangements which may be necessary.†

If the Education Department are of opinion that any parish in a united school district has too few rate-payers to be entitled to act as a separate parish for the purposes of this Act, they may by order direct that it shall, for the purpose of voting for a member or members of the school board, and for all or any of the purposes of this Act, be added to another parish, and thereupon the persons who would be entitled to vote and attend the

\* Sec. 46. With regard to the number of members in a board, *see* p. 41. As to the persons qualified to vote at an election for a board, and as to the mode of conducting such election, *see* p. 43.

† Sec. 47.

vestry if it were a parish shall be entitled, for the purpose of voting and for such purposes, to vote in and attend the vestry of the parish to which their parish is so added. All the parishes comprised in a united district, or any two or more of them, may be added together in pursuance of this section.\*

### CONTRIBUTORY DISTRICTS.

The Education Department may by order direct that one school district shall contribute towards the provision or maintenance of public elementary schools in another school district or districts, and in such case the former (or contributing district) shall pay to the latter (or school-owning district or districts) such proportion of the expenses of such provision or maintenance, or a sum calculated in such manner as the Education Department may from time to time prescribe.†

Where one school district contributes to the provision or maintenance of any school in another school district, such number of persons as the Education Department (having regard to the amount to be contributed by the contributing district) direct shall be elected in the contributing district, and shall be members of the school board of the school-owning district, but such last-mentioned district shall, except so far as regards the raising of money and the attendance of children at school, be deemed alone to be the district of such school board; such members shall be

\* Sec. 48.

† Sec. 49.

elected by the school board, if any, or, if there is none, by the persons who would elect a school board if there were one, in the same manner as a school board would be elected.\*

The provisions of this Act with respect to the notices to be published, and the application for and the holding of a public inquiry in the case of an order for the formation of an united district, shall apply, *mutatis mutandis*, to an order respecting a contributory district.

An order respecting a contributory district shall be evidence of the formation of such district, and after the expiration of three months from the date thereof shall be presumed to have been duly made, and no objection to the legality thereof shall be entertained in any legal proceeding whatever.

Any such order may be revoked or altered by an order of the Education Department, and a new order may be made in lieu thereof, and all the provisions of this Act respecting the making of an order for contribution shall apply to the making of an order for the revocation or alteration of an order for contribution.†

## POWER OF DISTRICTS TO COMBINE.

The school boards of any two or more school districts, with the sanction of the Education Department, may combine together for any purpose relating to elementary schools in such districts, and, in particular, may combine for the purpose of providing, maintain-

\* Sec. 50.

Sec. 51.

ing, and keeping efficient schools common to such districts. Such agreements may provide for the appointment of a joint body of managers, under the provisions of this Act with respect to the appointment of a body of managers, and for the proportion of the contributions to be paid by each school district, and any other matters which, in the opinion of the Education Department, are necessary for carrying out such agreement, and the expenses of such joint body of managers shall be paid in the proportions specified in the agreement by each of the school boards out of their school fund.\*

## MODE OF DEFRAYING THE EXPENSES OF SCHOOL BOARDS.

### ANY DEFICIENCY TO BE MADE GOOD OUT OF RATES.

The expenses of the school board under this Act are to be paid out of a fund called the school fund. There are to be carried to the school fund all moneys received as fees from scholars, or out of moneys provided by Parliament,† or raised by way of loan, or in any manner whatever received by the school board, and any deficiency is to be raised by the school board as provided by this Act.‡

The provision made for supplying the deficiency is a draft on the local rates. The school board will not itself

\* Sec. 52. † See as to parliamentary grants, *post*, p. 141.

‡ Sec. 53.

levy a rate. It will obtain the requisite funds by issuing a precept to the local rating authority mentioned in the first schedule (p. 13), requiring that authority to pay over the necessary sum out of the rate also mentioned in the same schedule. There is no limit to the sum which may be thus called for, or to its amount in the pound on the rateable value.\* The clause by which this power of the board to draw on the rates is conferred, and under which it is to be exercised, is the 54th, which provides that—

“Any sum required to meet any deficiency in the school fund, whether for satisfying past or future liabilities, shall be paid by the rating authority out of the local rate.

“The school board may serve their precept on the rating authority, requiring such authority to pay the amount specified therein to the treasurer of the school board out of the local rate, and such rating authority shall pay the same accordingly, and the receipt of such treasurer shall be a good discharge for the amount so paid, and the same shall be carried to the school fund.

“If the rating authority have no moneys in their hands in respect of the local rate, they shall, or if they have paid the amount, then for the purpose of reimbursing themselves, they may, notwithstanding any

\* In the original draft of the Bill it was provided that the sum to be raised by rates should not exceed 3*d.* in the pound, but this limit was expunged in the progress of the Bill through the House of Commons.

limit under any Act of Parliament or otherwise, levy the said rate, or any contributions thereto, or any increase of the said rate or contributions, and for that purpose shall have the same powers of levying a rate and requiring contributions as they have for the purpose of defraying expenses to which the local rate is ordinarily applicable.\*

With regard to United districts, the 55th clause enacts that, "in a united district, the school board shall apportion the amount required to meet the deficiency in the school fund among the districts constituting such united districts, in proportion to the rateable value of each such constituent district, and may raise the same by a precept sent to the rating authority of each constituent district.

"Where one school district contributes to the expenses of the schools in another school district, the authority of the school-owning district may send their precept either to the school board, if any, or to the rating authority of the contributing district, requiring them to pay to their treasurer the amount therein specified, and such authority or board shall pay the same accordingly, and the receipt of the treasurer shall be a good discharge for the same, and such amount, if paid by the school board, shall be paid out of the school fund.

"The precept, if sent to the rating authority, either on the default of the school board or otherwise, shall be

\* For the form of precept to be issued to the local authority under this section, see *ante*, p. 68.

deemed to be a precept for meeting a deficiency in the school fund, and the provisions of this Act shall apply accordingly."

## REMEDY OF SCHOOL BOARD FOR DEFAULT OF RATING AUTHORITY.

" In either of the following cases, (that is to say,)

- (1.) If the rating authority of any place make default in paying the amount specified in any precept of the school board ; or
- (2.) Where a school board require to raise a sum from any place which is part of a parish,

then, without prejudice to any other remedy, the school board may appoint an officer or officers to act within such place ; and the officer or officers so from time to time appointed shall have within the said place, for the purpose of defraying the sum due from such place, all the powers of the rating authority of levying the local rate and any contributions thereto, and also all the powers of making and levying a rate which he or they would have if the said place were a parish, and such rate were a rate for the relief of the poor, and he or they were duly appointed an overseer or overseers of such parish ; and he and they shall have such access to and use of the documents of the rating authority of such place relative to the local rate, and of all the valuation lists and rate books of the parish or pa-

ishes comprised in or comprising such place, as he or they may require.”\*

## BORROWING BY SCHOOL BOARD.

“Where a school board incur any expense in providing or enlarging a school-house, they may, with the consent of the Education Department, spread the payment over several years, not exceeding fifty, and may for that purpose borrow money on the security of the school fund and local rate, and may charge that fund and the local rate with the payment of the principal and interest due in respect of the loan. They may, if they so agree with the mortgagee, pay the amount borrowed, with the interest, by equal annual instalments, not exceeding fifty ; and if they do not so agree, they shall annually set aside one fiftieth of the sum borrowed as a sinking fund.

“For the purpose of such borrowing, the clauses of The Commissioners Clauses Act, 1847,† with re-

\* Sec. 56.

† This Act (10 & 11 Vict. c. 16) contains a series of provisions with regard to the mortgage of local rates, and other property, by local bodies. They prescribe the form of mortgage ; direct that a register of mortgages should be kept, and be open to inspection ; point out the mode in which transfers of mortgages are to be legal ; provide for the keeping of a register of transfers ; enact that, unless otherwise provided in any mortgage, the interest is to be paid half-yearly ; give power to the public body to borrow money at a lower rate of interest to pay off securities at a higher rate ;

spect to the mortgages to be executed by the commissioners, shall be incorporated with this Act; and in the construction of those clauses for the purpose of this Act, this Act shall be deemed to be the special Act, and the school board which is borrowing shall be deemed to be the commissioners.

“The Public Works Loan Commissioners may, on the recommendation of the Education Department, lend any money required under this section on the security of the school fund and local rate without requiring any further or other security, such loan to be repaid within a period not exceeding fifty years, and to bear interest at the rate of three and a half per centum per annum.”\*

## BORROWING BY METROPOLITAN SCHOOL BOARD.

The metropolitan school board may borrow, like any other school board, under the last-mentioned section and provide for the repayment of money borrowed, at a time and place agreed upon, or at the expiration of a notice to be given on either side—the interest to cease on the expiration of a notice to pay off a mortgage debt. They also enact that moneys borrowed on the security of rates must be paid off within a limited period, and point out the mode of paying off mortgages. Other clauses relating to the appointing a receiver when necessary, in order to enforce the payment of principal and interest, and declare that the books of accounts of the public body, where rates are mortgaged, shall, at all seasonable times, be open to the inspection of the mortgagees of the rates.

\* Sec. 57.

of the Act, either from private individuals or from the Public Works Loan Commissioners. But they have, in addition to these, another resource which is peculiar to themselves.

The 58th section enacts that “any sum borrowed by the school board for London in pursuance of this Act, with the approval of the Education Department, may be borrowed from and may be lent by the Metropolitan Board of Works, and section thirty-seven\*

\* As the metropolitan school board will probably avail themselves to a considerable extent of this section, we give it entire, merely remarking that in the first line the words “school board for London” must be read in lieu of “Managers of the Metropolitan Asylum District.” It runs as follows:—

“Where the managers of the Metropolitan Asylum District require to borrow money under The Metropolitan Poor Act, 1867, and the Acts amending the same, such managers may borrow, and the board may lend, on the security authorized by those Acts, such sums as the managers may have been authorized by the Poor Law Board, in pursuance of those Acts, to borrow, not exceeding in the whole five hundred thousand pounds.

“For the purpose of raising the money so lent to the managers, the board may create consolidated stock under the provisions of this Act, in like manner and with the like sanction as they may create the same for the purpose of raising money for the purposes of the Acts mentioned in the first schedule to this Act; and all the provisions of this Act shall apply as if such money were raised and stock were created for the purposes of the last-mentioned Acts, with this exception, that the money required in pursuance of this section may be borrowed by the board in addition to the sum limited by this Act. All sums received by the board from the said managers in respect of interest on, or the principal of, such loan shall be carried to the Metropolitan Consolidated Loans Fund. Notwith-

of The Metropolitan Board of Works Loan Act, 1869, shall apply to such loan in the same manner as if the managers therein mentioned were the school board for London, and there were added to the sum therein authorized to be borrowed the sum authorized by the Education Department to be borrowed under this section."

### RATEPAYERS MAY INSPECT BOOKS AND DOCUMENTS OF SCHOOL BOARD.

"Every ratepayer in a school district may at all reasonable times, without payment, inspect and take copies of and extracts from all books and documents belonging to or under the control of the school board of such district.

"Any person who hinders a ratepayer from so inspecting or taking copies of or extracts from any book or document, or demands a fee for allowing him so to do,

standing anything in The Metropolitan Poor Act, 1867, and the Acts amending the same, the amount so lent by the board shall be repaid to them by the said managers, with interest, within such period not exceeding sixty years as may be agreed upon between the board and the said managers, subject to the approval of the Treasury. The board may lend, and the managers may borrow, money in pursuance of this section for the purpose of repaying any loan due at the passing of this Act from the said managers. The board and the said managers may execute all such deeds and documents, and do all such acts as may be necessary or expedient for carrying this section into effect."

shall be liable, on summary conviction, to a penalty not exceeding five pounds for each offence.”\*

## ACCOUNTS AND AUDIT.

The following are the provisions of the Act with regard to the accounts of the board, and the audit thereof:—

Sec. 59. The accounts of the school board shall be made up and balanced to the twenty-fifth of March and twenty-ninth of September in every year. The accounts shall be examined by the school board and signed by the chairman within fourteen days after the day to which they are made up.

As soon as practicable after the accounts are so signed they shall be audited.

Sec. 60. (*Audit of accounts.*) With respect to the audit of accounts of the school board, the following provisions shall have effect:—

- (1.) The auditor shall be the auditor of accounts relating to the relief of the poor for the audit district in which the school district is situate, or if it is situate in more than one audit district, by the auditor of such of the said audit districts as the Poor Law Board may direct, and the term audit district in this provision shall be construed to include a parish for which an auditor is separately appointed to audit the accounts for the relief

\* Sec. 87. As to recovery of penalties, see p. 136.

of the poor. The auditor shall receive such remuneration as the Poor Law Board direct, and such remuneration, together with the expenses of or incident to the audit, shall be paid by the school board out of the school fund, and if unpaid, may be recovered in a summary manner :

- (2.) The audit shall be held at the office of the school board, or some other place sanctioned by the Poor Law Board within the school district, or within the union within which the school district or some part thereof is situate, and at a time which is fixed by the auditor, but which shall be as soon as may be after the account is signed by the chairman :
- (3.) The auditor, at least fourteen days before holding the audit, shall serve on the school board, and publish, notice of the time and place of holding the same :
- (4.) The clerk of the school board, or some person authorized by the school board, shall attend the audit, and produce to the auditor all books, bills, vouchers, and documents relating to the accounts :
- (5.) Any ratepayer of the school district may be present at the audit, and may object to the accounts :
- (6.) The auditor shall, as nearly as may be, have the like powers and be under the like obligation to allow and disallow items in the

accounts, and to charge the school board, or any member or officer thereof, or any person accountable to them or him, with any sum for which they or he may be accountable, as in the case of an audit of the accounts relating to the relief of the poor in any union or parish; and any person aggrieved by the decision of the auditor shall have the like rights and remedies as in the case of such last-mentioned audit :

- (7.) The auditor shall have the like powers of requiring the attendance of persons, the production of books, bills, vouchers, and documents, and a declaration respecting vouchers and documents, as in the case of such last-mentioned audit ; and any person who refuses or neglects to comply with any such requisition, or wilfully makes or signs a false declaration so required, shall be liable to the same penalties as in the case of such last-mentioned audit :
- (8.) Any moneys, books, documents, and chattels certified by the auditor to be due from any person, may be recovered from such person in like manner as in the case of such last-mentioned audit, and the expenses incurred in such recovery shall be deemed to be part of the expenses of the audit :
- (9.) Subject to the provisions of this section, the Poor Law Board may from time to time

make such regulations as may be necessary respecting the form of keeping the accounts and the audit thereof.

Sec. 61. (*Penalty for improper payment of surcharge.*)—Any member or officer of a school board, or manager appointed by them, who authorizes or makes, or concurs in authorizing or making, any payment or any entry in accounts for the purpose of defraying or making up to himself or any other person the whole or any part of any sum of money unlawfully expended from the school fund, or disallowed or surcharged by any auditor, shall, on summary conviction, be liable to pay a penalty not exceeding twenty pounds and double the amount of such sum.

Sec. 62. (*Publication of accounts.*)—When the auditor has completed the audit he shall sign the balance sheet. The school board shall cause a statement showing their receipts and expenditure to be printed in such form and with such particulars as may be from time to time prescribed by the Education Department, and shall send the same within thirty days after the balance sheet is signed by the auditor to each member of the rating authority, and to the overseers of every parish in the district, and to the Education Department; and the school board may, if they think fit, publish such statement or an abstract thereof in any local newspaper or newspapers circulating in the district, and shall furnish a copy of such statement to

any ratepayer in the district, on his application, and on the payment of a sum not exceeding sixpence.

The audit of the accounts of a school board is put on the footing of an audit of the expenditure of a poor-rate, and is placed under the jurisdiction of the Poor Law Board. At first sight, this may appear rather anomalous, but the anomaly disappears when we recollect that, in the great majority of districts, the cost of schools is a charge upon the poor-rate, and that the object of an audit is to prevent any undue or improper liability being cast upon the fund which is *primâ facie* subject to it. Be that, however, as it may, the law—which is all we have here to do with—is clear, and that being the case, our duty is confined to explaining, as briefly and as clearly as we can, the principal enactments which define the powers and duties of an auditor, or give an appeal against his decisions.

The 7th & 8th Vict. c. 101, s. 33, empowers the auditor “to require any person holding or accountable for any money, books, deeds, papers, goods, or chattels, relating to the poor’s rate or the relief of the poor, to produce to such auditor his accounts and vouchers, and to make or sign a declaration with respect to such accounts; and so often as such person neglects or refuses to attend, either at the audit or any adjournment thereof, when so required by such auditor, or to produce to him such accounts or vouchers, or any of them, or to make or sign a declaration with respect to his accounts, if thereunto required by such auditor, he

shall be liable for every such refusal or neglect to forfeit forty shillings." If he makes a false declaration, he will be guilty of perjury, and punishable accordingly. The parties being duly before him, the auditor, under the 7th & 8th Viet. c. 101, s. 32, is authorized to "examine, audit, allow or disallow of accounts and of items therein relating to moneys assessed for and applicable to the relief of the poor of all parishes and unions within his district, and to use other moneys applicable to such relief; and such auditor shall charge in every account audited by him the amount of any deficiency or loss incurred by the negligence or misconduct of any person accounting, or of any sum for which any such person is accountable, but not brought by him into account against such person, and shall certify on the face of every account audited by him any moneys, deeds, papers, goods, or chattels found by him to be due from any person."

If any money, books, deeds, papers, goods, or chattels certified by the auditor to be due from any person are not duly paid over or delivered over within seven days from the date of the certificate, the auditor must proceed to enforce the payment or delivery over of the same. All moneys thus certified by the auditor to be due are recoverable from all or any of the persons making or authorizing the illegal payment, or otherwise answerable for the moneys, and are recoverable on the application of the auditor or of any person for the time being entitled or authorized to receive the same, in the same manner as penalties and forfeitures under the

provisions of the 4 & 5 Will. IV. c. 76, ss. 91 and 101 (see 7 & 8 Vict. c. 101, s. 32; 11 & 12 Vict. c. 91, s. 9, and 12 & 13 Vict. c. 103, ss. 9 & 10). Proceedings to recover sums disallowed or surcharged must, however, be commenced within nine calendar months from the decision of the auditor, or, in the case of an appeal from the decision, within nine calendar months from the determination thereof. The decision of the auditor is subject to an *alternative* appeal under the 7th & 8th Vict. c. 101. The 35th section of that Act provides that "if any person aggrieved by any allowance,\* disallowance, or surcharge by any such auditor, requires such auditor to state the reasons for the said allowance, disallowance, or surcharge, the auditor shall state such reasons in writing in the book of accounts in which the allowance, disallowance, or surcharge may be made; and it shall be lawful for every person aggrieved by such allowance, and for every person aggrieved by such disallowance or surcharge, if such person have first paid or delivered over to any person authorized to receive the same all such moneys, goods, and chattels as are admitted by his account to be due from him or remaining in his hands, to apply to the Court of Queen's Bench for a writ of *certiorari*, to remove into the said court the said allowance, disallowance, or surcharge." The case being then before the Court of Queen's Bench, they will consider the auditor's decision, either confirm or reverse it, and award costs accordingly. That

\* For instance, a ratepayer who thinks that the auditor has allowed money improperly expended.

is one mode of appeal. The other, and by far the preferable one, since it allows substantial justice to be done, apart from mere technical or strictly legal considerations (which must always have weight in a court of law), is given by the 36th section of the same Act, which provides that it shall be lawful for any person aggrieved as aforesaid by any allowance, disallowance, or surcharge, in lieu of making application to the Court of Queen's Bench for a writ of *certiorari*, to apply to the Poor Law Commissioners to inquire into and decide upon the *lawfulness* of the reasons stated by the auditor for such allowance, disallowance, or surcharge, and it shall thereupon be lawful for the said Commissioners to issue such order therein, under their hands and seal, as they may deem requisite for determining the question. Then, by the 11 & 12 Vict. c. 91, s. 4, it is enacted that where any appeal shall be made to the said Commissioners against any allowance, disallowance, or surcharge made by any auditor in the accounts of any guardians, overseers,\* or their officers, it shall be lawful for the said Commissioners to decide the same *according to the merits of the case*; and if they shall find that any disallowance or surcharge shall have been or shall be lawfully made, but that the subject-matter thereof was incurred *under such circumstances as make it fair and equitable* that the disallowance or surcharge should be remitted, they may, by an order under their seal, direct that the same shall be remitted upon payment of the costs, if any, which may have been incurred by the auditor or other com-

petent authority in the enforcing of such disallowance or surcharge.

## PROCEEDINGS AGAINST SCHOOL BOARDS IN DEFAULT.

The Education Department are enabled to enforce the due execution of the Act by school boards, through the power given them under the sections to which we shall presently refer, to take proceedings against such of those bodies as are in default. Before, however, we describe what those proceedings are, it is necessary, or at any rate convenient, to state shortly the circumstances under which a school board is said to be "in default." The 6th section provides, that "where the Education Department, in the manner provided by this Act, are satisfied and have given public notice that there is an insufficient amount of public school accommodation for any school district, and the deficiency is not supplied as hereinafter required, a school board shall be formed for such district and shall supply such deficiency, and in case of default by the school board the Education Department shall cause the duty of such board to be performed in manner provided by this Act." Then the default referred to in this section is further defined under Sections 10 and 11 (*see* p. 37) as a failure to supply sufficient school accommodation within twelve months after a requisition to that effect, made by the Education Department, on the formation of a school board.

Under Sec. 16 (p. 78), it is a "default" if the school board do not observe the regulations under which they are bound to conduct their schools. Then under Sec. 18 (*see* p. 79), the Education Department may treat as a case of default the non-compliance of a school board with any requisition calling upon them to maintain or keep their schools efficient, or to establish additional schools. And, lastly, if no school board is elected on the day appointed for the first election, or if the school board at any time ceases to exist or to be of sufficient number to form a quorum, by reason of non-election, resignation, or otherwise, or neglect or refuse to act, then the Education Department may, under Sec. 32 (*see* p. 60), proceed in the same manner as if there were a school board acting in such district, and the board was a board in default.

In all these cases the Education Department *may* proceed under the 63rd, 64th, and 65th clauses, as in the case of a school board in default ; but, as we shall presently see, they *need* not do so, because they have another remedy, under the 66th clause, which provides not merely for the dissolution of a recusant school board, but for the election of another. That will be the subject of our next section ; for the present, however, we confine ourselves to the proceedings under the three clauses we have just mentioned.

The 63rd clause provides that :—

Where the Education Department are, after such

inquiry as they think sufficient, satisfied that a school board is in default as mentioned in this Act, they may by order declare such board to be in default, and by the same or any other order appoint any persons, not less than five nor more than fifteen, to be members of such school board, and may from time to time remove any member so appointed, and fill up any vacancy in the number of such members, whether caused by removal, resignation, death, or otherwise, and, subject as aforesaid, add to or diminish the number of such members.

After the date of the order of appointment the persons (if any) who were previously members of the school board shall be deemed to have vacated their offices as if they were dead, but any such member may be appointed a member by the Education Department. The members so appointed by the Education Department shall be deemed to be members of the school board in the same manner in all respects as if, by election or otherwise, they had duly become members of the school board under the other provisions of this Act, and may perform all the duties and exercise all the powers of the school board under this Act.

The members appointed by the Education Department shall hold office during the pleasure of the Education Department, and when that Department consider that the said default has been remedied, and everything necessary for that purpose has been carried into effect, they may, by order, direct that members be elected for the school board in the same manner as

in the case of the first formation of the school board. After the date fixed by any such order the members appointed by the Education Department shall cease to be members of the school board, and the members so elected shall be members of the school board in their room, but the members appointed by the Education Department shall not be disqualified from being so elected. Until any such order is made no person shall become a member of the school board otherwise than by the appointment of the Education Department.

Where a school board is not elected at the time fixed for the first election, or has ceased to be in existence, the Education Department may proceed in the same manner as if such board had been elected and were in existence.

Then, by the 64th clause:—

“The Education Department may from time to time certify the appointment of any persons appointed to be members of a school board in default, and the amount of expenses that have been incurred by such persons, and the amount of any loan required to be raised for the purpose of defraying any expenses so incurred, or estimated as about to be incurred; and such certificate shall be conclusive evidence that all the requirements of this Act have been duly complied with, and that the persons so appointed have been duly appointed, and that the amounts therein mentioned have been incurred or are required.”

Lastly, under the 65th clause:—

“The expenses incurred in the performance of their duties by the persons appointed by the Education Department to be members of a school board, including such remuneration (if any) as the Education Department may assign to such persons, shall, together with all expenses incurred by the board, be paid out of the school fund; and any deficiency in the school fund may be raised by the school board as provided by this Act; and where the Education Department have, either before or after the payment of such expenses, certified that any expenses have been incurred by a school board, or any members appointed by them, such expenses shall be deemed to have been so incurred, and to have been properly paid out of the school fund.

“Where the members of a school board have been appointed by the Education Department, such school board shall not borrow or charge the school fund with the principal and interest of any loan exceeding such amount as the Education Department certify as mentioned in this Act to be required.”

## THE DISSOLUTION OF SCHOOL BOARDS.

Where the Education Department are of opinion that in the case of any school district the school board for such district are in default, or are not properly performing their duties under this Act, they may by order direct that the then members of the school board of such district shall vacate their seats, *and that the*

*vacancies shall be filled by a new election*; and after the date fixed by any such order the then members of such board shall be deemed to have vacated their seats, and a new election shall be held in the same manner, and the Education Department shall take the same proceedings for the purpose of such election as if it were the first election; and all the provisions of this Act relating to such first election shall apply accordingly.

The Education Department shall cause to be laid before both Houses of Parliament in every year a special report, stating the cases in which they have made any order under this section during the preceding year, and their reasons for making such order.\*

#### TENURE OF APPOINTMENT BY TEACHER, AND HIS REMOVAL FROM SCHOOL- HOUSE.

The provisions of the School Sites Acts with respect to the tenure of the office of the schoolmaster or schoolmistress, and to the recovery of possession of any premises held over by a master or mistress who has been dismissed or ceased to hold office, shall extend to the case of any school provided by a school board; and of any master or mistress of such school, in the same manner as if the school board were the trustees or managers of the school as mentioned in those Acts.†

\* Sec. 66.

†Sec. 86. The provisions of the School Sites Acts here re-

## NOTICES—HOW TO BE PUBLISHED.

Notices and other matters required by this Act to be published are, unless otherwise expressly provided, to be published—

- (1.) By advertisement in some one or more of the newspapers circulating in the district or place to which such notice relates :
- (2.) By causing a copy of such notices or other matter to be published to be affixed, during not less than twelve hours in the day, on Sunday, on or near the principal doors of every church and chapel in such district or place to which notices are usually affixed, and at every other place in such district or place at which notices are usually affixed.\*

Certificates, notices, requisitions, orders, precepts, and all documents required by this Act to be served or

ferred to are the 17th and 18th sections of the 4th & 5th Vict. c. 38. The former provides that “no schoolmaster or schoolmistress to be appointed to any school erected upon land conveyed under the powers of this Act shall be deemed to have acquired an interest for life by virtue of such appointment, but shall, in default of any specific engagement, hold his office at the discretion of the trustees of the said school ;” while the latter enacts that if a schoolmaster or schoolmistress, after lawful dismissal, insists upon retaining possession of the school-house or school-room, proceedings may be taken before the justices for his ejection, under the 1st & 2nd Vict. c. 74, intituled “An Act to facilitate the recovery of possession of Tenements after due determination of the Tenancy.”

\* Sec. 80.

sent may, unless otherwise expressly provided, be served and sent by post, and, till the contrary is proved, shall be deemed to have been served and received respectively at the time when the letter containing the same would be delivered in the ordinary course of post ; and in proving such service or sending it shall be sufficient to prove that the letter containing the certificate, notice, requisition, order, precept, or document was prepaid, and properly addressed, and put into the post.\*

Certificates, notices, requisitions, orders, and other documents may be served on a school board by serving the same on their clerk, or by sending the same to, or delivering the same at, the office of such board.

Certificates, notices, requisitions, orders, precepts, and other documents may be in writing or in print, or partly in writing and partly in print, and if requiring authentication by a school board, may be signed by their clerk.†

## EVIDENCE, ETC.—APPEARANCE OF SCHOOL BOARD IN LEGAL PROCEEDINGS.

All orders, minutes, certificates, notices, requisitions, and documents of the Education Department, if purporting to be signed by some secretary or assistant secretary of the Education Department, shall, until the contrary is proved, be deemed to have been so signed and to have been made by the Education

\* Sec. 81.

† Sec. 82.

Department, and may be proved by the production of a copy thereof purporting to have been so signed.

The Documentary Evidence Act, 1868, shall apply to the Education Department in like manner as if the Education Department were mentioned in the first column of the schedule to that Act, and any member of the Education Department, or any secretary or assistant secretary of the Education Department, were mentioned in the second column of that schedule.\*

After the expiration of three months from the date of any order or requisition of the Education Department under this Act, such order or requisition shall be presumed to have been duly made, and to be within the powers of this Act, and no objection to the legality thereof shall be entertained in any legal proceeding whatever.†

A school board may appear in all legal proceedings by their clerk, or by some member of the board authorized by a resolution of the board ; and every such resolution shall appear upon the minutes of the proceedings of the board, but every such resolution shall,

\* Sec. 83. The effect of the application of The Documentary Evidence Act, 1868, to the Education Department, is to enable *prima facie* proof of its orders and regulations ; to be given, not only in the manner pointed out in the first part of the clause, but by the production (1) of the *London Gazette* containing a copy of the order or regulations ; or (2) of a copy of the order or regulation purporting to be printed by the Government printer ; or (3) of a copy or extract purporting to be certified to be true by any member, or any secretary or assistant secretary, of the Education Department.

† Sec. 84.

until the contrary is proved, be deemed in any legal proceeding to appear upon such minutes.\*

## OFFENCES AND PENALTIES—CORRUPT PRACTICES AT ELECTIONS.

If any returning officer, clerk, or other person engaged in an election of a school board under this Act, wilfully makes or causes to be made an incorrect return of the votes given at such election, every such offender shall, upon summary conviction, be liable to a penalty not exceeding fifty pounds.†

If any person wilfully personates any person entitled to vote in the election of a school board under this Act, or answers falsely any question put to him in voting in pursuance of an order made under the second schedule to this Act, or falsely assumes to act in the name or on the behalf of any person so entitled to vote, he shall be liable, on summary conviction, for every such offence to a penalty not exceeding twenty pounds.‡

If any person knowingly personate and falsely assume to vote in the name of any person entitled to vote in any election under this Act, or forge or in any way falsify any name or writing in any paper purporting to contain the vote or votes of any person voting in any such election, or by any contrivance attempt to obstruct or prevent the purposes of any such election, or wilfully contravene any regulation made by the Education Department under the second schedule to

\* Sec. 85.

† Sec. 88.

‡ Sec. 89.

this Act with respect to the election, the contravention of which is expressed to involve a penalty, the person so offending shall, upon summary conviction, be liable to a penalty of not more than fifty pounds, and in default of payment thereof to be imprisoned for a term not exceeding six months.\*

Any person who at the election of any member of a school board, or any officer appointed for the purpose of such election, is guilty of corrupt practices shall, on conviction, for each offence be liable to a penalty not exceeding two pounds, and be disqualified for the term of six years after such election from exercising any franchise at any election under this Act, or at any municipal or parliamentary election.

The term corrupt practices in this section includes all bribery, treating, and undue influence which under any Act relating to a Parliamentary election renders such election void.†

Any penalty and any money which under this Act is recoverable summarily, and all proceedings under this Act which may be taken in a summary manner, may be recovered and taken before two justices in manner directed by an Act of the session of the 11th and 12th years of the reign of Her present Majesty, chap. 43, intituled "An Act to facilitate the performance of the duties of justices of the peace out of sessions within England and Wales with respect to summary convictions and orders," and the Acts amending the same.‡

\* Sec. 90.

† Sec. 91.

‡ Sec. 92.

## MISCELLANEOUS PROVISIONS.

*Small Endowments—Charitable Trusts.*

Where any school or any endowment of a school was excepted from the Endowed Schools Act, 1869, on the ground that such school was at the commencement of that Act in receipt of an annual parliamentary grant, the governing body (as defined by that Act) of such school or endowment may frame and submit to the Education Department a scheme respecting such school or endowment.

The Education Department may approve such scheme with or without any modifications, as they think fit.

The same powers may be exercised by means of such scheme as may be exercised by means of any scheme under the Endowed Schools Act, 1869; and such scheme, when approved by the Education Department, shall have effect as if it were a scheme made under that Act.

A certificate of the Education Department that a school was at the commencement of the Endowed Schools Act, 1869, in receipt of an annual parliamentary grant shall be conclusive evidence of that fact for all purposes.\*

The Education Department shall, for the purposes of the Charitable Trusts Acts, 1853 to 1869, be deemed to be persons interested in any elementary

school to which those Acts are applicable, and the endowment thereof.\*

*Rateable Value—How Ascertained.*

The rateable value of any parish or school district shall for the purposes of this Act be the rateable value as stated in the valuation lists, if any; and if there are none, then as stated in the rate book for the time being in force in such parish and in the parishes constituting the district; and the overseers and other persons having the custody of such valuation lists and rate book shall, when required by the school board, produce such lists and rate book to the school board, and allow the school board and any person appointed by them to inspect the same, and take copies of or extracts therefrom.†

*Inspection of Voluntary Schools by Inspector—not one of Her Majesty's Inspectors.*

Where the managers of any public elementary school not provided by a school board desire to have their school inspected or the scholars therein examined, as well in respect of religious as of other subjects, by an inspector other than one of Her Majesty's inspectors, such managers may fix a day or days not exceeding two in any one year for such inspection or examination.

The managers shall, not less than fourteen days before any day so fixed, cause public notice of the day

\* Sec. 78.

† Sec. 79.

to be given in the school, and notice in writing of such day to be conspicuously affixed in the school.

On any such day any religious observance may be practised, and any instruction in religious subjects given, at any time during the meeting of the school, but any scholar who has been withdrawn by his parent from any religious observance or instruction in religious subjects shall not be required to attend the school on any such day.\*

*Provision as to Oxford.*

In the case of the borough of Oxford, the provisions of this Act relating to boroughs shall be construed as if the local board were therein mentioned instead of the council; if a school board is formed in the borough of Oxford, one-third of the school board shall be elected by the University of Oxford or the colleges and halls therein, in such manner as may be directed by the Education Department by an order made under the power contained in the second schedule to this Act.†

*Schedules—Returns.*

The schedules to this Act shall be of the same force as if they were enacted in this Act, and the Acts mentioned in the fourth schedule to this Act may be cited in the manner in that schedule mentioned.‡

Every school board shall make such report and

\* Sec. 76.

† Sec. 93.

‡ ec.

returns, and give such information to the Education Department as the department may from time to time require.\*

---

## PART II.

### OF THE PARLIAMENTARY GRANT.

We have hitherto been considering the provisions of the Act which relate to the provision of schools. In doing so, we have been compelled to touch more than once on the subject of the parliamentary grant to schools; but we have reserved, until we reached this part of the Act, a complete statement of the law under which schools—whether public, elementary, under voluntary management, or rate-aided schools under school boards—will in future receive assistance from the State.

The first provision is of a negative kind, the 96th clause providing that, “after the thirty-first day of March, one thousand eight hundred and seventy-one, no parliamentary grant shall be made to any elementary school which is not a public elementary school within the meaning of this Act.†

No parliamentary grant shall be made in aid of building, enlarging, improving, or fitting up any elementary school, except in pursuance of a memorial

\* Sec. 95.

† As to what is a public elementary school, *see* p. 15.

duly signed, and containing the information required by the Education Department for enabling them to decide on the application, and sent to the Education Department on or before the thirty-first day of December, one thousand eight hundred and seventy."

It is then provided (Sec. 97) that "the conditions required to be fulfilled by an elementary school, in order to obtain an annual parliamentary grant, shall be those contained in the minutes of the Education Department in force for the time being, and shall, amongst other matters, provide that after the thirty-first day of March, one thousand eight hundred and seventy-one—

- (1.) Such grant shall not be made in respect of any instruction in religious subjects :
- (2.) Such grant shall not for any year exceed the income of the school for that year which was derived from voluntary contributions, and from school fees, and from any sources other than the parliamentary grant :

but such conditions shall not require that the school shall be in connection with a religious denomination, or that religious instruction shall be given in the school, and shall not give any preference or advantage to any school on the ground that it is or is not provided by a school board."

This part of the clause applies entirely to voluntary schools ; and as to them, it will materially modify the conditions on which they will receive grants after the

31st day of March, 1871—that is to say, after the end of the present financial year. On the other hand, the voluntary schools will (like the rate-aided schools) next year receive a considerable increase of the annual grant. That does not appear on the face of the Act, but it was announced, in the course of the debates in the House of Commons, to be the intention of the Government, and it may be said to have been part of the compromise by which the measure was successfully carried through. The extent of the intended augmentation, and the reasons for it, were stated by Mr. Gladstone in the course of a speech delivered on June 16th, 1870. He said, after stating the object he had in view,—“We think that an addition to the present grant from the Privy Council to the voluntary schools, which may be taken at its maximum at 50 per cent., would fully gain that object. Speaking roughly, it is said that the expense of educating a child in an efficient secular school is 30s., of which it may be said one-third is now provided by the Privy Council, one-third by payment from voluntary sources, and one-third by the children. We think that if to the third which is now dispensed the half of the second third were added, subject to the strict conditions which I have described with regard to secular education, the voluntary schools would have no reason to complain. But of course it will be necessary that further voluntary subscriptions should be contributed by the Exchequer to the secular schools; because, whatever the Privy Council might do in regard to the amount of its contributions, it is clear—

and I believe it has never been disputed—that it can only be fair if the amount given to voluntary schools from the general taxation of the country be equal, and no more than equal, to that which should be given to rate-aided schools.”

It should, of course, be observed, that the increased grant to which we have referred will be subject to the second condition of clause 97.

Under ordinary circumstances, parliamentary grants will be given to voluntary and rate-aided schools on exactly the same conditions. Both will have to earn them under the regulations of the New Revised Code, which is to be formed and promulgated in the early part of next year; and in both efficiency will meet with that equal reward from the State which Mr. Gladstone said, in the extract we have just quoted, that he considered so desirable. But it was contended during the passage of the Bill through the House of Commons, that something more than this was necessary to meet the case when school boards have to establish schools in exceptionally poor districts. With a view to meet this exigency, the following proviso was added to the 97th clause :—

“ Provided that where the school board satisfy the Education Department that, in any year ending the twenty-ninth of September, the sum required for the purpose of the annual expenses of the school board of any school district, and actually paid to the treasurer of such board by the rating authority, amounted to a sum which would have been raised by a rate of three-

pence in the pound on the rateable value of such district, and any such rate would have produced less than twenty pounds, or less than seven shillings and sixpence per child of the number of children in average attendance at the public elementary schools provided by such school board, such school board shall be entitled, in addition to the annual parliamentary grant in aid of the public elementary schools provided by them, to such further sum out of moneys provided by Parliament as, when added to the sum actually so paid by the rating authority, would, as the case may be, make up the sum of twenty pounds, or the sum of seven shillings and sixpence for each such child, but no attendance shall be reckoned for the purpose of calculating such average attendance unless it is an attendance as defined in the said minutes."

This is a somewhat complicated proviso, but the effect of it seems to be to secure that in every district, however poor, a sum equal to 7s. 6d. per child shall be raised or contributed from public funds for education, without imposing on the *ratepayers* a greater burden than a threepenny rate. Of course, what is saved to the ratepayers must be paid out of the taxes.\*

\* As to the finance of the clause, and its efficiency to meet the case of districts where a threepenny rate would yield an insufficient amount, we may usefully quote some remarks made by Mr. Gladstone when it was under discussion. The right hon. gentleman said: "He might state generally that the question of deficiency, after the rate of 3d. in the pound had been levied, would by the clause be reduced within exceedingly narrow limits. That rate would be made up by the Privy

Clause 97 concludes with a proviso that "no such minute of the Education Department not in force at the time of passing this Act shall be deemed to be in force, until it has lain for not less than one month on the table of both Houses of Parliament."

The minutes referred to are, of course, those referred to in the early part of the clause (*ante*, p. 142) with regard to the conditions required to be fulfilled by a school in order to obtain a parliamentary grant.

The Education Department are empowered to refuse grants for *new* schools which they deem unnecessary. The 98th section, which relates to this point, provides that "if the managers of any school which is situate in the district of a school board acting under this Act, and is not previously in receipt of an annual parliamentary grant, whether such managers are a school board or not, apply to the Education Department for a parliamentary grant, the Education Department may, if they think that such school is unnecessary, refuse such application.

The Education Department shall cause to be laid

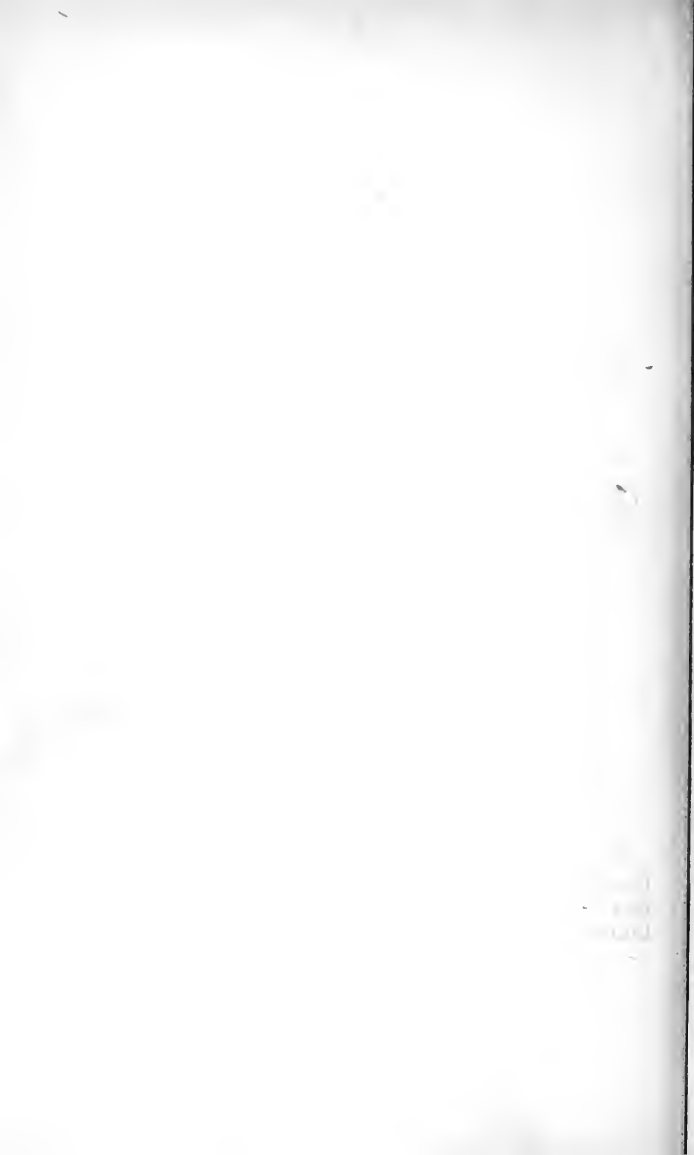
Council grant, according to the proposal of the Government, to 7*s.* 6*d.* Then there would be the school fees, said to amount on the average to 6*s.* 8*d.*; that was altogether 14*s.* odd. If the school was a well-conducted school, the Privy Council grant dependent on results would be very nearly double that sum. Provided the school were efficient, after the rate of 3*d.* in the pound had been levied, there would be a sum of 28*s.* or 29*s.* available. Even if he was wrong to the extent of a shilling or two, there would be 27*s.* a head; and his right hon. friend had stated that the education of children in an efficient school cost only 25*s.* 7*d.* per head."—*Hansard*, vol. ccli., p. 1653.

before both Houses of Parliament, in every year, a special report stating the cases in which they have refused a grant under this section during the preceding year, and their reasons for each such refusal.

The 99th clause enacts that “the managers of every elementary school shall have power to fulfil the conditions required in pursuance of this Act to be fulfilled in order to obtain a parliamentary grant, notwithstanding any provision contained in any instrument regulating the trusts or management of their school, and to apply such grant accordingly.”

And by the 100th (and last) it is provided that “the Education Department shall in every year cause to be laid before both Houses of Parliament a report of their proceedings under this Act during the preceding year.”

---



## APPENDIX I.

---

### GRANTS TO ESTABLISH ELEMENTARY SCHOOLS.

#### BUILDING.

22. Aid is not granted to build new elementary schools unless their Lordships are satisfied—

- (a.) That there is a sufficient population of the labouring class which requires a school in the vicinity.
- (b.) That the religious denomination of the new school is suitable to the families relied upon for supplying scholars.
- (c.) That the school is likely to be maintained in efficiency.
- (d.) That the buildings, at the time of application, have not been begun nor contracted for, and that no trust deed has been executed.

23. The grants made by the Committee of Council for building, enlarging, improving, or fitting up elementary schools, are not to exceed *any one* of the following limits, viz.:—

- 1st. *Limit.*—The total amount voluntarily contributed by proprietors, residents, or employers of labour *in* the parish where the school is situated, or *within* a radius of four miles from

the school. Such contributions may be in the form of

- (a.) Individual subscriptions ;
- (b.) Collections in churches or chapels in the same parish, or within the distance of four miles from the school ;
- (c.) Materials at the price allowed for them by the contractor, or at which sold off ;
- (d.) Sites given without valuable consideration (the value to be certified by two professional surveyors) ;
- (e.) Cartage (the value to be certified by the parochial surveyor of roads).

2nd Limit.—2s. 6d. per square foot of internal area in new school rooms and class-rooms.

3rd Limit.—65l. for each teacher's residence.

24. The site, plans, estimates, specifications, title, and trust deed, must be previously approved by the Committee of Council.

25. The balance of expenditure which is not covered by the *voluntary local* contributions and by the *public grant*, taken together, may be made up from any other sources that are available, such as the proceeds of endowment, or subscriptions which are not local.

26. Grants are not made for rooms intended to be used on Sundays only; nor for rooms under places of worship; nor to pay off debts for building; nor in consideration of former expenditure for building; nor for maintenance of buildings; nor for improving or fitting up schools which have already received the maximum amount allowable under Article 23.

27. The extension of the area of existing school-rooms to receive more scholars, and the addition of teachers' dwellings to existing school-rooms, are treated *pro tanto* as new cases under Article 23.

28. No application can be entertained if the approved estimate (Article 24) falls below 20l. in small rural schools (Article 133), or 50l. in other schools.

*The Site.*

29. The site must be—

- (a.) *In extent*,  
Not less than 1,200 square yards.
- (b.) *In situation*,
  - 1. Not unhealthy, nor noisy.
  - 2. Within convenient distance from the homes of the scholars.
- (c.) *In tenure*,  
Fee simple (Acts 4 & 5 Vict. c. 38, and 12 & 13 Vict. c. 49).

(1.) Without incumbrance, or rights reserved over the surface.

(2.) If with reservation of minerals, the party in whom the fee simple of them is vested must covenant to make compensation in the event of damage, and the grant made by the Committee of Council must be the first charge upon such compensation; the whole of which is to be applied as the Secretary of State for the Home Department may direct in furtherance of the trust for a school.

(3.) If subjected to powers of leasing, sale, or re-entry, the lease or sale must not be without the written consent of the Secretary of State for the Home Department, nor the re-entry without first repaying any grant which may have been paid in respect of the premises.

(4.) Leaseholds are not admissible, if fee simple can be obtained. The term must not be less than 99 years, and there must be no onerous covenants, nor more than nominal rent.

(5.) Copyholds must be enfranchised (Act 12 & 13 Vict. c. 49, s. 6).

*The Trust Deed.*

30. The trust deed must declare the premises to be granted in trust for the education of the poor, and for no other purpose whatever. It must also provide for the legal ownership of the premises, and for the inspection and management of the school, according to one or other of the precedents settled for: Church of England Schools, British Schools, Established Church of Scotland Schools; Wesleyan Schools, Free Church (Scotland) Schools, Roman Catholic Schools, Jewish Schools, Episcopal Church (Scotland) Schools, Undenominational Schools (belonging to none of the previous classes, but in which the Bible is read daily from the authorized version).

31. When the trust deed has been executed according to a draft approved and sealed by the Committee of Council, and (when necessary) enrolled or registered, a copy of it, including all signatures, attestations, and endorsements, must be made on plain unstamped parchment, and lodged in the Education Office.

32. When the application is for a grant to enlarge, improve, or fit up an existing elementary school already conveyed in trust, the deed must be a legal conveyance of the land, and not at variance with any of the principles which determine the approval of new deeds. The right of inspection must be permanently secured (Act 7 & 8 Vict. c. 37, sections 1 and 2), and there must be no powers or reservations to which the Act 18 & 19 Vict. c. 131, cannot be applied, and which might become prejudicial to the school.

*The Plans.*

33. The plans (with specification and estimate), when approved and sealed, may be returned to the promoters for use, but must be lodged in the Education Office before a grant is paid.

*Payment of Grants for Building, Enlarging, Improving,  
or Fitting up Elementary Schools.*

34. The amount of the grant is not announced until after the draft trust deed and plans have been sealed.

35. The grant must be accepted or declined within 14 days.

36. The grant is paid on presentation of a certificate (with balance sheet annexed), by the Building and Managing Committees of the school, setting forth that the building and conveyance are completed, and that the money in hand, raised by absolute donations, will, when added to the grant, meet all claims, and finally close the account.

37. Grants under £50 are treated as lapsed, if unpaid at the end of nine months, and grants above £50 at the end of eighteen months, from the date of announcing them.

## APPENDIX II.

### THE METROPOLITAN DISTRICT; ITS CONSTITUTION AND ITS DIVISIONS, WITH THEIR BOUNDARIES.

The Metropolitan District includes, under the Metropolis Management Act, 1855, the following Parishes and Districts:—

IN SCHEDULE A.—The Parishes of St. Marylebone; St. Pancras; Lambeth; St. George, Hanover Square; St. Mary, Islington; St. Leonard, Shoreditch; Paddington; St. Matthew, Bethnal Green; St. Mary Newington, Surrey; Camberwell; St. James, Westminster; St. James and St. John, Clerkenwell; Chelsea; St. Mary Abbot, Kensington; St. Luke, Middlesex; St. George the Martyr, Southwark; Bermondsey; St. George in the East; St. Martin in the Fields; Hamlet of Mile

End Old Town ; Woolwich ; Rotherhithe ; and St. John, Hampstead.

IN SCHEDULE B.—The following Districts, with the Parishes of which they are respectively composed :—

*Whitechapel District* : St. Mary, Whitechapel ; Christchurch, Spitalfields ; St. Botolph Without, Aldgate, in the county of Middlesex ; Holy Trinity, Minories ; Precinct of St. Katherine ; Hamlet of Mile End New Town ; Liberty of Norton Folgate ; Old Artillery Ground, and District of Tower. *Westminster District* : St. Margaret and St. John the Evangelist. *Greenwich District* : St. Paul, Deptford, including Hatcham ; St. Nicholas, Deptford, and Greenwich. *Wandsworth District* : Clapham ; Tooting Graveney ; Streatham ; St. Mary, Battersea, including Penge ; Wandsworth, and Putney, including Roehampton. *Hackney District* : Hackney and St. Mary, Stoke Newington. *St. Giles's District* : St. Giles-in-the-Fields and St. George, Bloomsbury. *Holborn District* : St. Andrew, Holborn above Bars ; St. George the Martyr ; St. Sepulchre, in the county of Middlesex ; Saffron Hill, Hatton Garden, Ely Rents and Ely Place, and the Liberty of Glasshouse Yard. *Strand District* : St. Ann, Soho ; St. Paul, Covent Garden ; St. John the Baptist, Savoy, or Precinct of the Savoy ; St. Mary-le-Strand ; St. Clement Danes and Liberty of the Rolls. *Fulham District* : St. Peter and St. Paul, Hammersmith and Fulham. *Limehouse District* : St. Anne, Limehouse ; St. John, Wapping ; St. Paul, Shadwell, and Hamlet of Ratcliff. *Poplar District* : All Saints, Poplar ; St. Mary, Stratford-le-Bow, and St. Leonard, Bromley. *St. Saviour's District* : Christchurch and St. Saviour (including the Liberty of the Clink). *Plumstead District and Lewisham District* : Charlton next Woolwich ; Plumstead ; Eltham ; Lee ; Kidbrooke ; Lewisham, including Sydenham Chapelry and the Hamlet of Penge. *Parish of Rotherhithe united with St. Olave District* : St. Olave ; St. Thomas, Southwark ; and St. John, Horselydown.

THE FOLLOWING ORDER HAS BEEN MADE AS TO BOUNDARIES AND NUMBER OF MEMBERS TO BE ELECTED FOR DIVISIONS OF METROPOLIS, AND APPOINTMENT OF RETURNING OFFICERS.

(See "*London Gazette*" of 11th October, 1870.)

At the Council Chamber, Whitehall, the 7th day of October, 1870.

MINUTE by the Lords of the Committee of the Privy Council on Education.

Their Lordships read and approved the following :—

ORDER FIXING THE BOUNDARIES OF THE DIVISIONS OF THE METROPOLIS WITH THE NUMBER OF MEMBERS TO BE ELECTED BY EACH DIVISION, AND APPOINTING THE RETURNING OFFICER FOR THE FIRST ELECTION OF THE SCHOOL BOARD FOR LONDON AND HIS DEPUTIES.

Whereas it is provided by the 87th section of "*The Elementary Education Act, 1870*," that the School Board in the Metropolis as in the said Act defined shall consist of such number of members elected by the divisions specified in the fifth schedule to the said Act as the Education Department may by order fix, and that the Education Department, as soon as may be after the passing of the said Act, shall by order determine the boundaries of the said divisions for the purposes of the said Act, and the number of members to be elected by each such division :

And whereas it is also provided that the Education Department may in the order fixing the boundaries of such divisions name some person who shall be the returning officer for the purpose of the first election of the School Board, and the person who is to be the deputy returning officer in each such division :

Now, therefore, the Lords of the Committee of Council on Education, by virtue and in exercise of the powers in them vested under the same Act, and of every other power enabling them in this behalf, do order, and it is hereby ordered as follows :—

1. Each of the following divisions, viz :—

Tower Hamlets ;  
Hackney ;  
Southwark ;  
Westminster ;  
Chelsea ;

shall have the same boundaries as the Parliamentary Borough of the same name, excluding such parts as are outside the said metropolis.]

2. The Division of Finsbury shall include such parts of the Parliamentary Borough of Finsbury as are within the said Metropolis, and the parts of Furnival's Inn and Staple Inn respectively which are outside the said Borough of Finsbury.

3. The City Division shall include the area comprised within the Parliamentary Borough of London, except those parts of Furnival's Inn and Staple Inn which are within such borough.

4. The Division of Marylebone shall include the Parliamentary Borough of Marylebone and the Parish of St. John, Hampstead.

5. The Division of Lambeth shall include the Parliamentary Borough of Lambeth, all those parts of the parishes of Lambeth and Camberwell outside the boundary of the said borough, and the Wandsworth district as described in Schedule B, Part I., of "The Metropolis Local Management Act, 1855." \*

6. The division of Greenwich shall include the Parliamentary Borough of Greenwich, and all those parts of the parishes of Greenwich and Woolwich and of the districts of Plumstead and Lewisham as described in Schedule B, Part II., of "The Metropolis Local Government Act, 1855," which are outside the said Borough of Greenwich.\*

7. The returning officer for the first election of the School Board for London shall be the Right Honourable

\* For parishes and places included in the Districts of Wandsworth and Plumstead and Lewisham, *see* p. 40.

Russell Gurney, one of Her Majesty's Counsel, Recorder of London.

8. The School Board for London shall consist of forty-nine members elected as aforesaid; and the number of such members to be elected and the deputy returning officer in each division shall be the numbers and the persons respectively mentioned in the second and third columns of the Schedule annexed.

9. "Parliamentary Borough" in this order shall mean a Borough as defined by "The Boundary Act, 1868."

F. R. SANDFORD, *Secretary.*

### SCHEDULE.

Division.	Number of Members to be elected.	Deputy Returning Officer.
Chelsea ... ..	Four ... ..	C. Lahee, Esq., vestry clerk of the parish of Chelsea.
City ... ..	Four ... ..	G. W. K. Potter, Esq., Secondary of the City of London.
Finsbury ... ..	Six ... ..	J. Layton, Esq., vestry clerk of the parish of St. Mary's, Islington.
Greenwich ... ..	Four ... ..	W. Bristow, Esq., vestry clerk of Greenwich.
Hackney ... ..	Five ... ..	R. Ellis, Esq., vestry clerk of the parish of St. John, at Hackney.
Lambeth ... ..	Five ... ..	T. Roffey, Esq., vestry clerk of the parish of St. Mary's, Lambeth.
Marylebone ... ..	Seven... ..	W. E. Greenwell, Esq., vestry clerk, of the parish of St. Marylebone.
Southwark ... ..	Four ... ..	D. Birt, Esq., vestry clerk of the parish of St. George the Martyr, Southwark.
Tower Hamlets ... ..	Five ... ..	T. G. Harrison, Esq., vestry clerk of the parish of St. George in the East.
Westminster ... ..	Five ... ..	J. Rogers, Esq., vestry clerk of the parishes of St. Margaret's and St. John's, Westminster.

## APPENDIX III.

THE SECTIONS OF THE METROPOLIS MANAGEMENT ACTS, 1855, 1862, SO FAR AS THEY ARE INCORPORATED IN THE ELEMENTARY EDUCATION ACT FOR THE PURPOSE OF REGULATING ELECTIONS IN THE METROPOLIS. 18 & 19 VICT. CAP. 120.\*

*Churchwardens to appoint persons to preside at Ward Elections.*

XIV. Where any parish is divided into wards, the churchwardens, three clear days at least before the day of election, shall appoint in writing under their hands a person to preside at such election as aforesaid in each of the said wards, except any ward in which one of the churchwardens shall preside, and notify such appointment to the vestry clerk of the parish.

*Rate Collectors to assist at the Elections.*

XV. The rate collectors, or persons appointed by them, shall attend the churchwardens and persons presiding at elections under this Act, and inspectors of votes, to assist in ascertaining that the persons presenting themselves to vote are parishioners rated to the relief of the poor in the parish, or the respective wards thereof, and duly qualified to vote at the election.

*Form of proceeding at Elections.*

XVI. On the day of election of vestrymen and auditors in any parish under this Act, the parishioners then rated to the relief of the poor in the parish, or, where the parish is divided into wards under this Act, in the ward thereof for which the election is holden, and who are desirous of voting, shall meet at the place appointed for such

\* These Acts only apply to the *first* election of a school board for London, in so far as they are consistent with the Order in Council on the subject. (See Appendix.)

election, and shall then and there nominate two ratepayers of the parish, or (if the parish be divided into wards) of the ward for which the election is holden, as fit and proper persons to be inspectors of votes ;

And the churchwardens, or, in the case of a ward election, such one of the churchwardens as is present thereat, or, where one of the churchwardens is not present, the person appointed by them to preside thereat shall, immediately after such nomination as aforesaid by the parishioners, nominate two other such ratepayers to be such inspectors ;

And after such nominations the said parishioners shall elect such persons duly qualified as may be there proposed for the offices of vestrymen and auditors or auditor ;

And the chairman at such meeting shall declare the names of the parishioners who have been elected by a majority of votes at such meeting :

Provided nevertheless, that no person shall be entitled to join or vote in any such election for any parish, or any ward of any parish, or be deemed a ratepayer thereof, or be entitled to do any act as such under this Act, unless he have been rated in such parish to the relief of the poor for one year next before the election, and have paid all parochial rates, taxes, and assessments due from him at the time of so voting or acting, except such as have been made or become due within six months immediately preceding such voting or acting.

*Power to demand a Poll, which shall be taken by Ballot.*

XVII. Provided always, that any five ratepayers may then and there, in writing or otherwise, demand a poll, which shall be taken by ballot on the day next following, and shall commence at eight of the clock in the forenoon and close at such hour as hereinafter mentioned ;

That is to say, at six of the clock in the afternoon in the case of any election to be holden in November, One thousand eight hundred and fifty-five, and at eight of the clock in the afternoon in all other cases ;

Each ratepayer depositing, as hereinafter provided, two

folded papers, one of which papers shall contain the names of the persons for whom such parishioner may vote as fit and proper to be members of the vestry, and the other shall contain the names or name of the persons or person for whom such parishioner may vote as fit and proper to be auditors or auditor of accounts ;

And each ratepayer shall have one vote and no more for the members of the vestry, and one vote and no more for the auditors or auditor of accounts to be chosen in the said parish or ward.

*Duty of Inspectors of Votes.*

XVIII. The persons voting shall deposit such folded papers in two separate sets of balloting glasses or boxes, one set for voting papers for members of vestry, and another set for the voting papers for auditors or an auditor ;

And the said balloting glasses or boxes shall be closed at the time hereinbefore fixed for the closing of the poll ;

And the inspectors for the parish or ward (as the case may be) shall forthwith meet together, and proceed to examine the said votes, and if necessary shall continue the examination by adjournments from day to day, not exceeding two days (Sunday excepted), until they have decided upon the persons duly qualified according to the provisions of this Act who may have been chosen to fill the aforesaid offices.

*Provision for case of Equality of Votes.*

XIX. In case an equality of votes appear to the aforesaid inspectors to be given for any two or more persons to fill either of the said offices, the inspectors shall decide by lot upon the person to be chosen.

\* \* \* \* \*

*Penalty for Forging or Falsifying any Voting Paper, or  
Obstructing the Election.*

XXI. If any person knowingly personate and falsely

assume to vote in the name of any parishioner entitled to vote in any election under this Act, or forge or in any way falsify any name or writing in any paper purporting to contain the vote or votes of any parishioner voting in any such election, or by any contrivance attempt to obstruct or prevent the purposes of any such election, the person so offending shall, upon conviction before any two or more justices of the peace having jurisdiction in the parish, be liable to a penalty of not less than ten pounds and not more than fifty pounds, and in default of payment thereof shall be imprisoned for a term not exceeding six nor less than three months.

*A List of Persons elected Vestrymen and Auditors by Parishioners to be Published.*

XXII. The inspectors shall, immediately after they have decided upon whom the aforesaid elections have fallen, deliver to the churchwardens, or to one of them, or other the person presiding at the election, a list of the persons chosen by the parishioners to act as vestrymen and auditors or an auditor of accounts ;

And the said list, or a copy thereof, shall be published in the parish as herein provided.

*Penalty on Inspector for making incorrect Return.*

XXIII. If any inspector wilfully make or cause to be made an incorrect return of the said votes, every such offender shall, upon information laid by any person before two or more justices of the peace having jurisdiction in the parish, and upon conviction for such offence, be liable to a penalty of not less than twenty-five pounds and not exceeding fifty pounds.

*Vestries to Provide places for holding Elections, and pay Expenses of taking Poll, &c.*

XXIV. The vestry of every parish mentioned in either of the Schedules (A) and (B) to this Act shall provide

such places as may be requisite for holding elections of vestrymen and auditors under this Act, and taking the poll thereat;

And the expenses of providing such places, of publishing notices of taking the poll, and of making the return at elections of vestrymen and auditors shall be paid out of the poor rates of the parish by order of the vestry:

Provided always, that the places requiring to be provided for the first election under this Act of vestrymen and auditors in any parish shall be provided by the churchwardens, and the expenses of providing the same shall be paid out of the poor rates, upon their order.

*As to Parishes having no Churchwardens.*

XXV. The provisions hereinbefore contained shall, so far as concerns any parish in either of the said Schedules (A) and (B) in which there are no churchwardens, be construed as referring to the overseers of the poor instead of the churchwardens.

*How Notices and Lists to be Published.*

XXVI. Every notice and list hereinbefore required to be published in any parish or ward of any parish shall be so published by being fixed in some public and conspicuous situation, on the outside of the outer door or outer wall near the door of every church and public chapel in such parish or ward, including places of public worship which do not belong to the Established Church, and if there be no such building as aforesaid, then in some public and conspicuous situation within such parish or ward.

*Churchwardens, &c., not complying with the Act, guilty of Misdemeanour.*

XXVII. If any churchwarden, overseer, rate collector, or other parish officer, refuse or neglect to call any meeting, or give any notice, or do any other act required

of him under the provisions of this Act, he shall be deemed guilty of a misdemeanour.

25 & 26 VICT. CAP. 102.

\* \* \* \* \*

*Inspectors of Votes to appoint Umpire.*

XXXIV. The inspectors of votes directed to be appointed under the firstly-recited Act, for any parish, or, where any parish is divided into wards, for any ward of a parish, may, before commencing the duties of their office under the said Act, appoint by writing under their hands an umpire; and in case the said inspectors shall be unable to agree upon or determine by a majority any matter which they are by the said Act required to determine, such matter shall be decided by the umpire, and his decision in relation thereto shall be final and conclusive.

## APPENDIX IV.

### ORDER REGULATING THE FIRST ELECTION OF THE SCHOOL BOARD FOR LONDON.

(See "*London Gazette*" of 28th October, 1870.)

At the Council Chamber, Whitehall, the 27th day of October, 1870.

MINUTE by the Lords of the Committee of the Privy Council on Education.

Their Lordships read and approved the following

### ORDER REGULATING THE FIRST ELECTION OF SCHOOL BOARD FOR LONDON.

The Lords of the Committee of the Privy Council on Education, by virtue and in exercise of the powers in

them vested under the Elementary Education Act, 1870, and of every other power enabling them in this behalf, do order, and it is hereby ordered, as follows :—

### TIME OF FIRST ELECTION.

1. The first election of members of the School Board for London shall be held on Tuesday, the 29th day of November, 1870.

### NOTICE OF ELECTION

#### *Notice, how given.*

2. On or before Monday, the 14th day of November, the deputy returning officer of each division shall, in each parish, or if the parish be divided into wards, in each parish ward, or in case of the City division, in each City ward of the division, publish such notice of election as is hereinafter described.

#### *Particulars of Notice.*

3. The notice shall specify the number of members to be elected for the division, with the day appointed for the election—viz., Tuesday, the 29th day of November, and shall also specify a place for the reception of the nomination papers hereinafter mentioned, and of such other notices or papers as the deputy returning officer may specify. The notice may be in the form annexed to this Order.

### NOMINATION AND WITHDRAWAL OF CANDIDATES.

#### *Time and Mode of Nominating Candidates.*

4. After publication of the said notice of election, but not later than Thursday, the 17th day of November, any person may be nominated as a candidate for any division by a nomination paper stating the division for which the candidate is nominated, and his Christian name, surname, place of abode, and description. Such nomination

paper shall be subscribed (in the case of the City division) by two persons entitled to vote for common councilmen, and (in the case of any other division) by two ratepayers of such division, and shall be sent to or delivered at the place appointed as aforesaid. In either case the subscribers shall add their places of abode and descriptions, and the premises in the division for which they are respectively rated. The deputy returning officer shall forthwith send notice of such nomination to each candidate.

*Within what time Nomination must be made.*

5. No nomination paper shall be received after four o'clock in the afternoon of Thursday, the 17th day of November, and no person shall be a candidate unless he has been nominated within the time, and in the manner aforesaid.

*Names, &c., of Candidates must be advertised.*

6. On or before Monday, the 21st day of November, the names, places of abode, and descriptions of the several candidates nominated for each division as aforesaid, shall be advertised by the several deputy returning officers in one or more of the newspapers circulating in their respective divisions.

*Withdrawal of Candidates.*

7. On or before Wednesday, the 23rd day of November, any candidate for a division may be withdrawn by delivering to the deputy returning officer of such division, or at such place as he may appoint, a notice of such withdrawal, signed by the candidate. Such notice shall not be delivered or received later than four o'clock in the afternoon of that day.

ELECTION.

*Election without Poll.*

8. If, after four o'clock on Wednesday, the 23rd day of

November, no more persons remain as candidates for a division than there are members to be elected for such division, the deputy returning officer for the division shall certify the same to the returning officer, and such persons shall be deemed to be elected.

*Election with Poll, notice thereof.*

9. If, after four o'clock of Wednesday, the 23rd day of November, more persons remain as candidates for a division than there are members to be elected, the deputy returning officer for such division shall cause to be published in each parish, parish ward, or City ward of the division, the names of such candidates, and give notice that a poll will be taken on Tuesday, the 29th day of November, between the hours of eight o'clock in the forenoon and eight o'clock in the afternoon.

POLLING-PLACES.

*Deputy Returning Officer to appoint Polling-Places.*

10. The deputy returning officer for each division shall determine the number and situation of the polling-places for his division, and shall publish the same in each parish, parish ward, or City ward of such division, not later than Friday, the 25th day of November. The deputy returning officer shall appoint one polling-place at least for each ward, unless, in his opinion, it be clearly unnecessary to do so.

*As to Certain Places.*

The deputy returning officer of the division within which any place mentioned in Schedule C to the Metropolis Management Act, 1855, is situate, shall appoint a convenient polling-place for every such place, unless, in his opinion, it be clearly unnecessary to do so.\*

\* For places included in this Schedule, see p. 178.

*Public-Houses.*

No public-house shall be used as a polling-place, or for the purposes of an election.

*Persons to preside at Polling-Places.*

11. The deputy returning officer of each division, or some person or persons appointed by him, in writing, for the purpose, shall preside at each polling-place within his division, provided that only one person shall preside at the same time.

## PERSONS ENTITLED TO VOTE.

*Who entitled to Vote for City Division.*

12. The persons entitled to vote for the members of the School Board to be elected for the City division shall be the same persons as would be entitled to vote in case of an election of common councilmen for the City.

*Who entitled to Vote for Other Divisions.*

13. The persons entitled to vote for the members of the School Board to be elected for the divisions other than the City shall be the ratepayers, as defined by the Elementary Education Act, 1870.\*

*Who entitled to Vote for Certain Places in Schedule C.*

14. With respect to the places mentioned in Schedule C of the Metropolis Management Act, 1855, any person assessed or liable to the last rate, or contribution in the nature of a rate, in respect of property situate in any such place as aforesaid under the said last-mentioned Act and the Acts amending the same, shall be entitled to vote in the election of members for the division within which such place or any part thereof is situated.†

\* As to the meaning of the term "ratepayers," see p. 176.

† For places in Schedule C, see p. 178.

## PLACE OF VOTING.

*Vote must be given where Property Situate.*

15. Each voter shall give his vote in the place, parish, parish ward, or City ward in which the property in respect of which he is entitled to vote is situate, and if it is situate in more than one place, parish, or ward within the same division, he shall vote in such place, parish, or ward as he selects. If there be any ward or place for which no separate polling-place is appointed, the voter shall give his vote at the polling-place appointed by the deputy returning officer for the purpose.

## POLL OUTSIDE THE CITY.

*How Poll taken except in City.*

16. The six regulations following—viz., 17, 18, 19, 20, 21, 22, shall apply to the divisions other than the City division.

*Election of Inspectors of Votes.*

17. The deputy returning officer and the several candidates nominated for each division, or persons authorized by such candidates, in writing, to act as their respective deputies, shall meet at eight o'clock in the afternoon of some day not later than the 28th day of November, and at some convenient place within the division, to be appointed by the deputy returning officer; and the majority of the candidates present, or their deputies, shall appoint two persons to act as inspectors of votes at each polling-place. Two clear days' notice of the time and place appointed as aforesaid shall be sent to each candidate. In case a majority of the candidates, or their deputies, cannot agree upon any two persons to act as aforesaid, the deputy returning officer shall determine the persons to be appointed.

*Mode of Ballot.*

18. The poll shall be taken by ballot on Tuesday, the

29th day of November, and shall commence at eight o'clock in the forenoon and close at eight o'clock in the afternoon. The polling shall take place in a convenient place appointed for the purpose, which shall be furnished with balloting-boxes, and so arranged by the deputy returning officer that the several voters may have the means of filling up the voting paper hereinafter mentioned without being overlooked.

*Who may be Present.*

19. No person shall be admitted into the polling-place except the deputy returning officer, or the person or persons appointed by him to preside, the inspectors of votes, and so many voters as may be allowed for the purpose of voting. The deputy returning officer, or the person presiding at the poll, may also at his discretion admit such of the rate-collectors, or persons appointed by them, as may in his opinion be necessary, who shall attend, with the rate books belonging to their respective parishes, to assist in ascertaining that the persons presenting themselves to vote are persons rated in the parish or the respective wards thereof. No voter shall, on any pretence, remain in the polling-place after having voted.

20. The polling shall be conducted in the manner following:—

(1.) Before the commencement of the poll the person presiding at the poll and the inspectors shall ascertain that the balloting-boxes are empty.

(2.) The person for the time being presiding at the poll shall ascertain that the person claiming to vote is entitled to do so, and his decision as to any such claim shall be final.

(3.) The person presiding at the poll shall hand to the person whose claim to vote has been ascertained a voting paper (to be provided by the deputy returning officer) containing the names of the candidates printed in alphabetical order, and in the form following:—

## OFFICIAL VOTING PAPER.

Christian Name, Surname, and Description of Candidate.	Number of Votes, if any given to each candidate must be entered opposite his name.
A	
B	
C	
D	
E	

N.B.—The voter has        votes, all or some of which he may distribute among the candidates as he pleases.

If anything but the *number* of votes given is *written* on this paper, or if any *other* paper than this is used, the votes *are not counted*.

(4.) The voter shall take the official voting paper to the place appointed for him, fill it up with the number of votes he gives to each candidate, and then fold up and deposit the said paper, and no other, in a ballot-box.

(5.) The deputy returning officer shall at each polling-place appoint one or more persons, whose duty it shall be to fill up a voting paper for any voter who declares himself unable to do so.

*Close of Poll.*

21. The balloting-boxes shall be closed at eight o'clock. On the poll being closed, the person presiding, as aforesaid, and the inspectors at each polling-place shall forthwith proceed to examine the said votes, and, if necessary, shall continue the examination by adjournments from day to day until they have decided the number of votes which have been given to each candidate. If the inspectors are divided in opinion as to the validity or effect of any voting paper, the presiding

officer shall determine the same; and his decision shall be final. In case of an adjournment the inspectors shall take measures for the safe custody of the balloting-boxes and voting papers.

*Presiding Officer and Inspectors to certify the number of Votes given to each Candidate; Deputy Returning Officer to certify number of Votes given to each Candidate in the Division.*

22. The person presiding, as aforesaid, and the inspectors at each polling-place shall certify to the deputy returning officer for the division the number of votes which have been given to each candidate, at the polling-place; and the deputy returning officer shall ascertain the number of votes given to each candidate in the division, and shall, as soon as may be, certify the same to the returning officer.

#### POLL WITHIN CITY DIVISIONS.

23. The six following regulations, viz.—24, 25, 26, 27, 28, 29, shall apply only to the City division.

#### *Mode of taking Poll.*

24. The poll shall be taken by each voter delivering to the person presiding at the polling-place, or in the manner appointed by him, an official voting paper in the form hereinbefore described, except that such voting paper shall, before delivery, be signed with the name of the voter, and contain the name of the street, lane, or other place in which the property for which he claims to vote is situated. The deputy returning officer shall provide so many voting papers as may be required, and shall appoint one or more persons at each polling-place to fill up a voting paper for any voter who professes himself unable to do so. No voting paper shall be received unless it be one supplied by the deputy returning officer.

*Questions.*

25. The person presiding at the poll may, and if required by any two voters shall, put to any voter at the time of his voting, but not afterwards, the following questions, or one of them, but no other :—

(1.) Are you the person whose name is signed as A. B. to the voting paper now delivered in by you ?

(2.) Are you the person whose name appears as A. B. on the list of persons entitled to vote in the election of common councilmen for the City ?

(3.) Have you already voted at the present election for this division ?

And no person required to answer any of the said questions shall be permitted or qualified to vote until he has answered the same.

*Duty of Persons Presiding.*

26. At the close of any poll the person presiding at the poll shall, if he is not the deputy returning officer, as soon as possible transmit the voting papers to the deputy returning officer of the City division.

*Duty of Deputy Returning Officer.*

27. The deputy returning officer shall forthwith proceed to examine the said voting papers, and, if necessary, shall continue the examination by adjournment until he has decided upon the number of votes given to each candidate, and the deputy returning officer shall determine any question arising on such examination, including the validity of any voting paper or otherwise, and his decision shall be final.

*Candidate may Appoint a Person to be present at the Examination of Voting Papers.*

28. Every candidate, or some person or persons appointed by him under his hand, may be present at the examination of the voting papers, but he must not inter-

fere with the deputy returning officer in the performance of his duty ; provided that only one person appointed as aforesaid shall be present at the same time.

*Result, how Ascertained.*

29. The deputy returning officer shall ascertain the number of votes given for each candidate, and shall, as soon as may be, certify the same to the returning officer.

DECLARATION OF RESULT.

*Duty of Returning Officer.*

30. The returning officer shall ascertain the candidates who have obtained the largest number of votes in any division, and such candidates shall be deemed to be elected ; and, in case of an equality of votes, the returning officer shall determine by lot the persons to be elected.

31. The returning officer shall publish notice of the result of the poll in the several divisions, and a list of the names of all the persons elected as members of the school board, and shall forthwith transmit a copy of such notice and list to the Education Department.

*Expenses of First Election.*

32. The expenses incident to the election shall be ascertained and determined by the returning officer, who shall apportion the amount to be borne by the different parts of the metropolis mentioned in the first schedule to the Elementary Education Act, 1870,\* according to the rateable value of such parts as adopted for the purpose of the then last preceding rate made by the Metropolitan Board of Works ; and the several rating authorities, as described in the same schedule, shall pay out of the respective local rates mentioned therein, and which rates, or any increase therein, may be levied for that purpose, the several amounts so apportioned to such person or persons as the returning officer shall by

\* For schedule, see p. 157.

precept direct, and for obtaining payment of the amount specified in any such precept the returning officer shall have the like powers as the school board under sec. 37 of the said Act.

#### GENERAL.

33. Notices and other matters required by these regulations to be published shall be published in the manner provided by the 26th section of the Metropolis Management Act, 1855, and in such other manner as is usually adopted in elections of vestrymen in the metropolis.

34. The several sections of the Acts mentioned in the 37th section of the Elementary Education Act, 1870, shall, except so far as they are superseded or modified by this order, apply to the said first election.

35. Words used in this order shall, so far as is consistent with the context, have the same meaning as the same words used in the Elementary Education Act, 1870.

F. R. SANDFORD, *Secretary.*

### FORM OF NOTICE.

#### ELECTION OF SCHOOL BOARD FOR LONDON.

*City of London Division, or [Division of ]*.

NOTICE is hereby given, that—

1. The first election of the members of the school board for London will take place on the 29th day of November, 1870.

2. The number of persons to be elected as members of the school board by this division, is .

3. [In the case of City division] Any two persons entitled to vote for common councilmen—

[In the case of any other division] Any two ratepayers of the division—

may nominate any person whatever as a candidate for the division, by a nomination paper containing the Christian name, surname, place of abode, and description

of the candidate, and signed by the persons nominating, who shall add their places of abode, descriptions, and the premises in the division for which they are respectively rated.

The nomination papers must be delivered at the office of the deputy returning officer not later than 4 o'clock of Thursday, the 17th day of November.

4. Public notice will be given of the list of candidates, on or before Monday, the 21st of November.

5. Any candidate may be withdrawn by the delivery at the said office, not later than 4 o'clock of Wednesday, the 23rd day of November, of a notice signed by the candidate.

6. The voting will take place in each parish, or if the parish is divided into wards, or in case of the City, in each ward, and notice of the numbers and situation of the polling-places will be published on Friday, the 25th of November.

Each voter must vote in the ward in which the property in respect of which he is entitled to vote is situate, and if it is situate in more than one ward, in the ward which he selects.

*[As to places, &c., see Rules 14, 15, and alter notice accordingly.]*

7. The poll will be open from 8 A.M. until 8 P.M.

8. [In the City] Every person entitled to vote for common councilmen is entitled to vote in this election.

[In other divisions] Every ratepayer is entitled to vote in this election.

9. [In the City] the voting will be by official voting papers, blank forms of which may be obtained at—

[In the other divisions] The voting will be by ballot, and by official voting papers, which will be obtained at the polling place on the day of election.

10. Each voter in this division has                      votes, all or some of which he may distribute among the candidates as he thinks fit.

11. The division of                      is thus defined :

[*Copy definition from the Order dated the 7th day of October, 1870.*]

12. Detailed information respecting the election is contained in the order regulating the same.

Dated this                      day of                      , 1870.

*Deputy Returning Officer  
for the Division of*

---

[*State address.*]

The following circular explanatory of this order has been addressed by the Education Department of the Privy Council to the deputy returning officers of the various districts :—

Educational Department, Nov. 14.

SIR,—Various questions having been addressed to this Department as to the interpretation to be put upon the order of the 27th of October, regulating the first election of the School Board for London, I am directed by the Lord President of the Council to transmit to you the following instructions, in order to secure uniformity in the decisions of the several officers who will preside at the polling places at the coming election. It should be understood that these instructions are intended, primarily, for the guidance of the Deputy Returning Officers, and the persons presiding at the polls, and apply only to the election which is to take place on the 29th of November next.

According to the order :—'The person entitled to vote for members of the School Board (outside the City), are "the ratepayers," which term includes every person who, under the provisions of the Poor Rate Assessment and Collection Act, 1869, is deemed to be duly rated. And "the person for the time being presiding at the poll shall ascertain that the person claiming to vote is entitled so to do; and his decision shall be final."

In exercising this jurisdiction, the officer should adopt the following rules :—

I. There should be no inquiry in any case whether the claimant, male or female, has or has not paid rates.

II. Where some person has been entered in the occupier's column of the rate-book as occupier of a particular tenement—(a.) The officer must not allow the entries in the rate-book to be questioned before him; and the person whose name is entered as the occupier of the tenement must be treated by him as the only person entitled to vote as occupier in respect of such tenement. (b.) Where, by order of the vestry, the owner of a tenement whereof the rateable value does not exceed £20 has been rated instead of the occupier, who is entitled to vote at the coming election, the claim of the owner to vote should also be allowed. (c.) Where an occupier has been entered in the rate-book as "having succeeded or come into occupation" of a tenement, and continues on the rate-book at the time of the election, such occupier is the only person entitled to vote as occupier in respect of such tenement.

III. Where no person has been entered in the occupier's column of the rate-book as occupier of a particular tenement—(a.) If a claim to vote is made by any person who admits that he was not in occupation at the time when the rate was last made, the claim should be disallowed. (b.) If a claim to vote is made by any person who alleges and can satisfy the officer that he was in occupation at the time when the rate was last made, and ought to have had his name entered in the rate-book, the claim should be allowed.

With reference to this last instruction, I am to point out that the overseer, when making out the rate-book, is required, under a pecuniary penalty in case of negligence or wilful omission, to enter in the rate-book the name of every occupier of a rateable hereditament. The powers vested in overseers by the Act of Parliament are amply sufficient to enable them to perform this duty; and the Poor Law Board has issued special instructions directing the attention of overseers to the provisions of the Act in question, and explaining the proper steps to

be taken in order to comply with them. The rate-book, therefore, if properly made out, is a complete register of the persons entitled to vote in the coming election, and the officer should, in the first instance, treat the rate-book as such complete register, and should require an occupier who is not on the rate-book to show clearly that his name has been improperly omitted, before admitting him to vote. (c.) If a claim to vote is made by any person who alleges himself to be a lodger, his claim shall be disallowed. (d.) If a claim to vote is made by a person who alleges himself to be an occupier, but who appears to occupy part of a dwelling-house which is "wholly let out in apartments or lodgings," not separately rated when the Representation of the People Act, 1867, passed, viz., 15th of August of that year, his claim should be disallowed.

The officer at each polling-place will, of course, know from the rate-book the date at which the rate was last made, and the public should be reminded that each voter can vote only once in your division. It is hoped that these instructions will enable you to solve any questions which may occur in taking the poll.—I am, &c.,

PATRICK CUMIN, *Assistant Secretary.*

IN SCHEDULE C.—The Close of the Collegiate Church of St. Peter, the Charter House, Inner Temple, Middle Temple, Lincoln's Inn, Gray's Inn, Staple Inn, and Furnival's Inn.

---

## APPENDIX V.

### REGULATIONS FOR THE FIRST ELECTION OF SCHOOL BOARDS IN BOROUGH.

(See "*London Gazette*" of 28th Oct., 1870.)

At the Council Chamber, Whitehall, the 27th day of October, 1870.

MINUTE by the Lords of the Committee of the Privy Council on Education.

Their Lordships read and approved the following

GENERAL REGULATIONS FOR THE FIRST ELECTION OF  
SCHOOL BOARDS IN BOROUGHs.

1. The number of members of the school board of a borough shall be from five to fifteen, as may be determined in each case.

2. The returning officer shall be the mayor of the borough, or a deputy appointed under his hand.

3. The first election of members of the school board shall be held on some day to be fixed by the returning officer, and within 28 clear days after the date of the requisition to elect a school board, which will be sent to the mayor.

4. Fourteen clear days at least before day fixed for the election the returning officer shall prepare, sign, and publish such notice of the election as is hereinafter prescribed.

5. The notice shall specify the number of members to be elected, with the day fixed for the election; and shall also specify a place for the reception of the nomination papers hereinafter mentioned. The notice shall be in the form annexed to this order, or to the like effect.

6. After publication of the notice, but not less than *ten* clear days before the day fixed for the election, any two persons whose names are on the burgess-roll of a borough may nominate any person as a candidate, by sending to, or delivering at, the appointed place, a nomination paper, subscribed by such two persons as aforesaid, and stating the Christian name and surname, with the place of abode and description of each subscriber, and of the candidate nominated; and the returning officer shall send, forthwith, notice of such nomination to each candidate.

7. No nomination paper shall be received after four

o'clock in the afternoon of the last day upon which such paper may be received, and no person shall be a candidate unless he has been nominated within the time and in the manner aforesaid.

8. Eight clear days before the day fixed for the election, the names, places of abode, and descriptions of the several candidates nominated as aforesaid, shall be advertised by the returning officer in one or more of the newspapers circulating in the borough, or shall be published in like manner as in the case of an election of councillors,

9. After delivery of a nomination paper, but not less than six clear days before the day fixed for the election, any candidate may be withdrawn by delivering at the place appointed a notice of such withdrawal, addressed to the returning officer, and signed by the candidate. Such notice shall not be delivered later than four o'clock in the afternoon.

10. If no more persons are nominated as aforesaid than there are members to be elected, such persons shall be deemed to be elected, and the returning officer shall, on the day fixed for the election, publish a list of the names, with the places of abode and descriptions of the persons so elected, and such publication shall be conclusive evidence of the election. The returning officer shall forthwith transmit a copy of such list to the Education Department.

11. If after the time hereinbefore limited for the withdrawal of any candidate, more persons remain as candidates than there are members to be elected, the returning officer shall forthwith publish the names, places of abode, and descriptions of the candidates, and give notice that a poll will be taken on the day fixed for the election, between the hours specified in such notice.

12. The returning officer shall determine the number and situation of the polling-places, and shall publish the same not less than three clear days before the day fixed for the election. No public-house shall be used for a polling-place, or for the purposes of an election.

13. If the borough is divided into wards, each voter shall give his vote in the ward in which the property in respect of which he is entitled to vote is situate, and if it is situate in more than one ward, he shall vote in such ward as he selects.

14. The returning officer, or some person or persons appointed by him for this purpose, shall preside at each polling-place.

15. The poll shall commence at such an hour, not earlier than eight A.M., and close at such an hour, not later than eight P.M., as shall be fixed by the returning officer but the poll shall not be open for more than seven hours.

16. The poll shall be taken by each voter delivering an official voting paper (to be supplied by the returning officer) containing the Christian name and surname of the candidate or candidates for whom he votes, with their respective places of abode and descriptions, and the number of votes he gives to each candidate, in accordance with sec. 29 of the Elementary Education Act, 1870, which provides that "Every voter shall be entitled to a number of votes equal to the number of the members of the school board to be elected, and may give all such votes to one candidate, or may distribute them among the candidates, as he thinks fit." Such voting paper shall, before delivery, be signed with the name of the burgess voting, and contain the name of the street, lane, or other place in which the property for which he appears to be rated on the burgess-roll is situated.

17. The person presiding at the poll may, and if required by any two voters shall, put to any voter at the time of his voting, but not afterwards, the following questions, or one of them, but no other:—(1.) Are you the person whose name is signed as A. B. to the voting paper now delivered in by you? (2.) Are you the person whose name appears as A. B. on the list of burgesses, being registered therein as being rated for property described to be situated therein? (Here specify the street, &c., as described in the burgess-roll.) (3.) Have you already

voted at the present election? And no person required to answer any of the said questions shall be permitted or qualified to vote until he has answered the same.

18. At the close of any poll, the person presiding at the poll shall, if he is not the returning officer, as soon as possible transmit the voting papers to the returning officer.

19. The returning officer shall forthwith proceed to examine the said voting papers, and, if necessary, shall continue the examination by adjournment from day to day (Sundays excepted), until he has decided upon the number of votes given to each candidate; and such returning officer shall determine any question arising on such examination, including the validity of any voting paper or otherwise, and his decision shall be final.

20. Every candidate, or some person or persons appointed by him under his hand, may be present at the examination of the voting papers, but must not interfere with the returning officer in the performance of his duty: provided that only one person, appointed as aforesaid, shall be present at the same time.

21. The returning officer shall ascertain the number of votes given for each candidate, and shall, as soon as may be, declare the candidates who have received the most votes to be duly elected. In case of an equality of votes, the returning officer shall determine by lot the persons to be elected.

22. The returning officer shall publish notice of the result of the poll and of the names of the persons elected. He shall also forthwith transmit a copy of such notice to the Education Department, and deliver the voting papers to the Town Clerk, to be kept for six months among the records of the borough.

23. The expenses of the election and of taking the poll shall be paid by the school board out of the school fund.

24. Notices and other matters required by these regulations to be published, shall be published in like manner as in the case of the election of councillors.

F. R. SANDFORD, *Secretary*.

## FORM OF NOTICE.

Borough of \_\_\_\_\_

## ELECTION OF A SCHOOL BOARD.

## NOTICE IS HEREBY GIVEN

1. That the first election of a school board for this borough will take place on the \_\_\_\_\_ day of 1870.

2. That the number of persons to be elected as members of the school board is \_\_\_\_\_

3. That any two burgesses may nominate any person whatever as a candidate, by sending to or delivering at *the office of the Town Clerk (or other office to be specified)* a nomination paper.

The nomination paper must be dated and subscribed by the two burgesses, and must contain the Christian names, surnames, places of abode, and descriptions of the subscribers, and of the candidate nominated.

No nomination paper will be received after four o'clock in the afternoon of the \_\_\_\_\_ day of \_\_\_\_\_

That public notice will be given of the list of candidates on or before the \_\_\_\_\_ day of \_\_\_\_\_

4. That any candidate may be withdrawn by delivering at *the Town Clerk's office (or other office to be specified)* not later than four o'clock in the afternoon of the \_\_\_\_\_ day of \_\_\_\_\_ a notice of withdrawal, signed by the candidate and addressed to the returning officer.

5. That the voting will take place in each ward, and notice of the number and situation of the polling-places will be published on or before the \_\_\_\_\_ day of \_\_\_\_\_

Each voter must vote in the ward in which the property in respect of which he is rated is situated, and if it is situate in more than one ward, in such ward as he selects.

6. That the poll will be open from A.M.  
till P.M.

7. Every person upon the burgess-roll is entitled to vote in the election.

8. The voting shall be by an official voting paper, which shall be in the following form, or in a form similar :—

### OFFICIAL VOTING PAPER.

Christian Name, Surname, Description, and place of abode of each Candidate.	No. of Votes (if any) given to any Candidate must be entered opposite his name.
A.	
B.	
C.	
Etc.	

Name of Voter \_\_\_\_\_

Street, lane, or place in which  
property for which the voter  
appears to be rated on the bur-  
gess-roll is situated. } \_\_\_\_\_

Voting papers may be obtained at *the Town Clerk's office (or other place or places to be specified).*

9. That in this borough each voter has \_\_\_\_\_ votes,  
all or some of which he may distribute among the candidates as he thinks fit.

Dated this \_\_\_\_\_ day of \_\_\_\_\_ 1870.

*Returning Officer.*

*(State office or address.)*

## APPENDIX VI.

## FOURTH SCHEDULE.

## SCHOOL SITES ACTS.

The following Acts may be cited together as the  
 “School Sites Acts, 1841 to 1851.”

Year and Chapter of Act.	Title of Act.	Short Title by which Acts may be cited.
4 & 5 Vict. c. 38.	An Act to afford further facilities for the conveyance and endowment of sites for schools.	The School Sites Act, 1841.
7 & 8 Vict. c. 37.	An Act to secure the terms on which grants are made by Her Majesty out of the Parliamentary grant for the education of the poor; and to explain the Act of the fifth year of Her present Majesty, for the conveyance of sites for schools.	The School Sites Act, 1844.
12 & 13 Vict. c. 49.	An Act to extend and explain the provisions of the Acts for the granting of sites for schools.	The School Sites Act, 1849.
14 & 15 Vict. c. 24.	An Act to amend the Acts for the granting of sites for schools.	The School Sites Act, 1851.

344.070941 H728E c1

Holdsworth / The

Elementary Education Act,

OISE



3 0005 00016186 2

H728E

The Elementary Education Act, 1870, popularly explained, together with the various orders in council issued by the Education Department

Date Due

DEC

5 1988

NOV

1993

